

**SPECIAL COMMISSION OF INQUIRY
INTO MATTERS RELATING TO THE POLICE INVESTIGATION OF
CERTAIN CHILD SEXUAL ABUSE ALLEGATIONS IN THE CATHOLIC
DIOCESE OF MAITLAND-NEWCASTLE**

At Newcastle Supreme Court
Court Room Number 1, Church Street, Newcastle NSW

On Monday, 13 May 2013 at 9.30am
(Day 6)

Before Commissioner: Ms Margaret Cunneen SC

Counsel Assisting: Ms Julia Lonergan SC
Mr David Kell
Mr Warwick Hunt

Crown Solicitor's Office: Ms Emma Sullivan,
Ms Jessica Wardle

1 THE COMMISSIONER: Good morning, ladies and gentlemen.
2 Mr Kell.
3
4 MR KELL: Good morning, Commissioner. I call Detective
5 Chief Inspector David Anthony Waddell.
6
7 <DAVID ANTHONY WADDELL, sworn: [9.47am]
8
9 <EXAMINATION BY MR KELL:
10
11 MR KELL: Q. Could please state your full name?
12 A. It's David Anthony Waddell.
13
14 Q. You're a detective inspector of the NSW Police Force?
15 A. Yes, that's correct.
16
17 MR SAIDI: Could it be noted that witness also relies on
18 the privilege of section 123 of Special Commissions of
19 Inquiry Act.
20
21 THE COMMISSIONER: Thank you, Mr Saidi, that is
22 understood.
23
24 MR KELL: Q. You are currently attached to the Tuggerah
25 Lakes Local Area Command?
26 A. Yes.
27
28 Q. You have provided a signed statement to the Commission
29 dated 18 March 2013?
30 A. Yes.
31
32 Q. Do you have a copy of your statement handy?
33 A. I do.
34
35 Q. Are the contents of that statement true and correct?
36 A. Yes, they are.
37
38 MR KELL: I tender that statement.
39
40 THE COMMISSIONER: Thank you. Is there a copy that I may
41 have, please.
42
43 MR KELL: Certainly.
44
45 THE COMMISSIONER: Thank you. The statement of Detective
46 Inspector David Anthony Waddell will be admitted and marked
47 exhibit 6.

1
2 **EXHIBIT #6 STATEMENT OF DETECTIVE INSPECTOR DAVID ANTHONY**
3 **WADDELL**
4

5 MR KELL: Q. If you put the statement to one side,
6 I will come back and ask you some questions about it. By
7 way of background, you have been a police officer since
8 1990?

9 A. Yes.

10
11 Q. And you've been involved in criminal investigations
12 since 1996?

13 A. Yes.

14
15 Q. You were promoted to the rank of detective sergeant in
16 2000?

17 A. Yes, that's correct.

18
19 Q. You've held the rank of detective inspector since
20 2006?

21 A. Yes.

22
23 Q. From 2008 to 2011 you were based at the Lake Macquarie
24 Local Area Command?

25 A. Yes, I was.

26
27 Q. At that time you held the position of crime manager?

28 A. Yes.

29
30 Q. And you currently hold the position of crime manager
31 at Tuggerah Lakes Local Area Command?

32 A. Yes, I do.

33
34 Q. In your statement at paragraph 6, you refer to the
35 position of crime manager at Lake Macquarie Local Area
36 Command?

37 A. Yes.

38
39 Q. I wonder if you could assist the Commissioner by
40 detailing in brief fashion the principle duties and
41 responsibilities of a crime manager?

42 A. My principal duties were managing all the major
43 investigations within the command, which included sexual
44 assault investigations, homicide investigations, as well as
45 having overall responsibility for all investigations, case
46 management within the command. In most times, we were
47 getting within the vicinity of 500 cases within the

1 command.

2

3 Q. Just pausing there, when you refer to "the command",
4 you're referring to your time at the Lake Macquarie Local
5 Area Command?

6 A. The Lake Macquarie Local Area Command as well as being
7 responsible for the units directly under myself, which
8 included the detectives and the proactive teams and the
9 intel areas, their management, performance and welfare.

10

11 Q. Pausing there, you referred to the number of
12 investigations at any given point in time. What's the
13 approximate number which you would have?

14 A. There would be about 500 cases on average within the
15 command at any one time, all types of matters obviously.
16 Specifically there would be in the vicinity of 80 to 100
17 cases in the detectives office of a more serious nature and
18 then some obviously major strike forces that would be
19 running.

20

21 Q. In 2010 when you were at Lake Macquarie, how many
22 detectives did you have management responsibility for?

23 A. In the vicinity of 20 detectives, but probably
24 50 staff all up.

25

26 Q. And by "50 staff", you mean 50 police officers?

27 A. Yes.

28

29 Q. So detectives and --

30 A. Intelligence units, crime management units and
31 proactive teams.

32

33 Q. What steps did you take to keep abreast of particular
34 investigations that you had overall management?

35 A. The main step would be through briefings with the
36 staff and particularly the detective sergeants.

37

38 Q. Was that done on a regular basis?

39 A. Pretty much daily.

40

41 Q. Of the total number of investigations, was there a
42 particular briefing done daily for all of them or just on a
43 weekly basis?

44 A. It would depend on what were the major focuses at the
45 current time.

46

47 Q. As crime manager, what was the particular reporting

1 structure? To whom did you report at Lake Macquarie?
2 A. To the commander.
3
4 Q. And at that time in 2010, who was that?
5 A. September it was Superintendent Rae.
6
7 Q. Did junior officers, junior detectives report direct
8 to you?
9 A. No, they reported to the detective sergeants, but
10 I would often have conversations or briefings from
11 individual detectives.
12
13 Q. How many detective sergeants did you have at Lake
14 Macquarie?
15 A. There was one - sorry, there were two detective
16 sergeants and one senior sergeant.
17
18 Q. Who were they?
19 A. The investigations manager was Chad Gillies and the
20 detective sergeants were - well, they actually changed.
21 Kristi Faber was there for the duration, and I had Bill
22 Glenn for a period of time and then he was replaced by
23 Grant Erickson.
24
25 Q. I think you indicated that as crime manager, you had
26 an overall management responsibility for investigations at
27 Lake Macquarie?
28 A. Yes.
29
30 Q. Did you also as crime manager have an involvement in
31 active investigation?
32 A. No, not actively. I supervised and managed and led
33 the investigations, but I didn't actively investigate other
34 than critical incidents.
35
36 Q. What are critical incidents?
37 A. Critical incidents was when there was a death or
38 serious injury as a result of a police operation.
39
40 Q. So putting to one side critical incidents, during your
41 time at Lake Macquarie, were you involved in any active
42 investigation as a crime manager?
43 A. I was involved in managing them, leading them and
44 giving directions, providing resources, and managing the
45 performance and welfare associated with staff in those
46 investigations. I didn't take an active part insofar as
47 taking statements or anything of witnesses.

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Q. In your experience, is that common for a crime manager not to take an active role in investigations other than at the management level?

A. Yes, that's normally the case.

Q. In your experience, what is the reason for that, or reasons?

A. Because that is not the role. Essentially, as I said, there are number of ongoing major investigations within the command as well as the volume crime issues to manage as well as the crime issues. You don't have the time or capability to be conducting investigations other than the occasional complaint or critical incident.

Q. So there are practical considerations to which you refer, are there, that would impact on the ability of a crime manager to be involved in in an investigation?

A. Definitely.

Q. And one you referred to is time?

A. Yes.

Q. There are just significant time limitations, are there?

A. Time limitations, definitely. It is very important to manage your time. But also it wasn't my role to be actively involved in the investigations; I was responsible for the management and leading of those investigations.

Q. And that's a structural limitation, as it were?

A. Yes.

Q. Are there any other practical considerations, other than time, that would limit the involvement of you as a crime manager in an active investigation, other than at the management level?

A. Yes, there is. I think you need to maintain some sort of oversight and a helicopter-type view of things. If you get bogged down in an investigation, you're not able to manage the other issues that are arising.

Q. Let me just ask you about a related topic. Have you encountered the circumstance of a crime manager from another local area command coming across to a local area command that was conducting an investigation and taking an investigative role in that investigation?

1 A. No, I have not.
2
3 Q. When I ask that question, I'm asking you to put to one
4 side the critical incidents exception, if you like.
5 A. Yes.
6
7 Q. So the situation that I have just posited, you have
8 not encountered that?
9 A. No, no.
10
11 Q. I take it that's in all the time that you have been a
12 police officer since 1990?
13 A. Yes, I have never encountered that situation.
14
15 Q. In addition to the practical limitations to which you
16 referred that would impact on you as a crime manager being
17 involved in an investigation in your local area command, in
18 that situation that I posited, are there other additional
19 limitations that would make it impractical or difficult in
20 any way - and if there are, tell us what they are - in such
21 a person having involvement?
22 A. I think the main issues would be resourcing.
23 Obviously that position would need to be backfilled.
24
25 Q. Just pausing there, when you say "that position would
26 need to be backfilled", what do you mean?
27 A. The position from the command that's been left, and
28 there's a cost implication.
29
30 Q. And what is that?
31 A. Again, that is that the position that has been left
32 would have to be backfilled and someone would have to
33 relieve in that position. So it was really about costing
34 and resourcing and apart from the fact that you really want
35 the right level of experience and expertise in the
36 investigation.
37
38 Q. In your statement at paragraph 6, you provided the
39 Commission with some information relating to Strike Force
40 Georgiana?
41 A. Yes.
42
43 Q. And that was a strike force - tell me if this is
44 correct - that was looking into allegations of child sexual
45 abuse by certain persons formerly associated with the
46 Maitland-Newcastle diocese?
47 A. Yes. In the main, I should say, in the main.

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Q. That was a strike force, was it, that was being conducted out of Lake Macquarie?

A. Yes, it was.

Q. I don't want you to name any particular persons of interest or witnesses, but I just wonder if you could give some general description of the ambit and the subject of Strike Force Georgiana?

A. Strike Force Georgiana commenced prior to me being in Lake Macquarie. It was already running. Specifically, it was looking at five persons of interest. It was being led by Detective Sergeant Faber and had a number of staff from Lake Macquarie and also from Newcastle at that stage, I believe.

Q. Just pausing there, when you refer to staff from Newcastle, were they junior detective staff or more senior?

A. Two detective senior constables and that staff changed during my time there.

Q. Did Georgiana expand or contract in any way during the time that you were at Lake Macquarie?

A. Yes, it changed a number of times with staffing and with the specific targets or persons of interests that it was looking at.

Q. Just to be clear, McAlinden or Fletcher, who are named in this Commission's terms of reference, were never the subject of inquiry by Georgiana?

A. No, they were not.

Q. That's because they pre-dated the establishment of Georgiana effectively - the offences they committed as perpetrators?

A. Yes, I don't know if that was the main reason, but they were not specifically being looked at. There was five persons of interest at the time that I was managing the investigation and they were not the focus of the investigation.

Q. In 2010, to what extent was Georgiana making demands on the investigative resources that you had overall management for in Lake Macquarie?

A. At that stage with Georgiana, the main person of interest had predominantly already been charged. There was one further charge in, I think it was, April 2010.

1 Detective Sergeant Faber was still, I suppose, overlooking
2 the investigation but was working full-time on a murder
3 investigation at the time. So we had scaled back Georgiana
4 at that point in time in 2010.

5
6 Q. Did it subsequently expand when you were there?

7 A. Not while I was there, no. There was some ongoing
8 investigation, but it didn't expand to a full-blown
9 investigation while I was there as a strike force.

10
11 Q. In your statement, you also refer to a Strike Force
12 Lozano. Again was that a Strike Force being conducted from
13 Lake Macquarie at the time that you were there?

14 A. Yes, I initiated Strike Force Lozano.

15
16 Q. Again I'm not inviting you to name any particular
17 persons of interest or witnesses, but if you could indicate
18 the subject matter of the strike force that you initiated?

19 A. Yes, Strike Force Lozano was a major sexual assault
20 investigation looking at initially four persons of interest
21 and approximately 20 victims. There are a lot more persons
22 of interest now. It's still an ongoing investigation and
23 there are numerous victims, in excess of 50, and again,
24 it's sexual assaults by the clergy.

25
26 Q. In mid-2010, to what extent was Strike Force Lozano
27 making demands on the investigative resources that you were
28 managing?

29 A. We had at least two to three detectives on the
30 investigation at that point in time as well as analysts and
31 other investigators helping on an interim sort of basis, so
32 the staffing for that investigation changed again as a
33 group. Essentially, initially there were two to three
34 detectives working on it.

35
36 Q. In your statement, you indicate that in about April
37 2010, the Lake Macquarie Local Area Command received
38 certain documents from Joanne McCarthy, who is a senior
39 journalist at the Newcastle Herald?

40 A. Yes.

41
42 Q. We will come back to the details of all of that and
43 you subsequently forwarded the documents on to the
44 Newcastle Local Area Command?

45 A. Yes.

46
47 Q. I wonder if you could reach for volume 1 of what is

1 the three-volume tender bundle next to you. You'll see
2 there are numbers tabbed on the right-hand side?
3 A. Yes.
4
5 Q. I want to ask you to go to tab 27. You will see
6 there is a receipt of documents of 23 April 2010 from Shaun
7 McLeod to Joanne McCarthy?
8 A. Yes.
9
10 Q. Then following that, there are some 16 pages of
11 documents?
12 A. Yes.
13
14 Q. In your statement you indicate that the documents you
15 received in April or May 2010 you attached to a report of
16 3 May 2010?
17 A. Yes.
18
19 Q. I wonder, doing the best you can, whether you're able
20 to indicate whether these are the documents that you
21 attached to your report that you saw?
22 A. I don't recall them, but I believe they would be the
23 documents, yes.
24
25 Q. When you say you believe they would be --
26 A. Because they were the documents that Shaun McLeod,
27 Detective Shaun McLeod, has given a receipt to
28 Joanne McCarthy for on 23 April and they were the documents
29 that you were referred to in my report on 3 May.
30
31 Q. In terms of the quantity of documents that you
32 attached to your report of 3 May, does the quantity
33 effectively --
34 A. Yes, I believe so, yes.
35
36 Q. That's about the size?
37 A. Yes.
38
39 Q. In terms of the nature of the documents, do you have
40 any recollection as to whether they were documents of this
41 type, this character?
42 A. Yes, I believe so. I believe that would be them, but
43 I do not recall the actual documents. I remember - I
44 recall the content or the subject matter, but not the
45 actual documents as such.
46
47 Q. Put that to one side for the moment, please. What

1 were the circumstances in which you received the documents,
2 and I think you indicated you received them from Shaun
3 McLeod?

4 A. Look, I don't recall actually receiving the documents,
5 but they did definitely come from Shaun McLeod and he
6 received them from Joanne McCarthy. I don't recall whether
7 he handed them to me personally or whether they were left
8 in the tray or whether they were handed to me by possibly
9 Detective Sergeant Faber, but I know they came into my
10 possession and I know that I reviewed them and, as a result
11 of that, I completed a document on 3 May, which I then
12 forwarded to the Newcastle Local Area Command. I'm also
13 aware that I had conversations with a number of persons in
14 relation to the documents.

15
16 Q. I'll come back to that in a minute. Do you recall
17 approximately when you received the documents, how --

18 A. I know that the article that was written in the paper,
19 which relates to these documents, in the Newcastle Herald,
20 was 28 April. The documents are dated 23 April. That's
21 when Shaun took them into his possession. So it was
22 sometime between 23 and 28 April.

23
24 Q. You made reference to an article in the Newcastle
25 Herald of 28 April?

26 A. Yes.

27
28 Q. Just for identification purposes, could you jump to
29 tab 28 of that folder. You'll see there is page numbering
30 at the bottom centre of those pages?

31 A. Yes.

32
33 Q. If you go to page 104(a)?

34 A. No, it only goes to 104 --

35
36 Q. Perhaps if you go past the next tab. Does that have
37 it?

38 A. Yes, 104(a).

39
40 Q. Is that the article to which you referred in evidence?

41 A. Again, I don't recall the actual article, but that's
42 dated 28 April, so that would be it.

43
44 Q. You'll see on the second page there's a reference to
45 yourself about halfway down:

46
47 *Lake Macquarie Police Detective Inspector*

1 *Dave Waddell said police were reviewing the*
2 *Herald's documents ...*

3
4 A. Yes.

5
6 Q. That gives you some indication, does it, that you had
7 received those documents by that day?

8 A. Yes.

9
10 MR KELL: I'll just hand up some diary entries which have
11 been provided this morning. I'll hand up a copy for the
12 Commissioner.

13
14 Q. Firstly, can you identify these documents?

15 A. Yes, they are entries from my diary in 2010.

16
17 Q. And that's your handwriting?

18 A. Yes.

19
20 Q. When were each of the entries made?

21 A. During that - on that day.

22
23 Q. As events happened?

24 A. Yes, essentially, they are things that I recall
25 whether I had conversations or talking to people.

26
27 Q. Again, if you go to the third page, which is a diary
28 entry of 28 April, you'll see there's an entry that starts,
29 "Review material"?

30 A. Yes.

31
32 Q. Could you read that on to the transcript, please?

33 A. Yes:

34
35 *Review material relating to Catholic Church*
36 *cover up Newcastle Herald involving*
37 *Father Denis McAlinden and Bishops Leo*
38 *Clarke, Michael Malone and Philip Wilson.*

39
40 Q. That is the same day as the newspaper article that
41 you've taken us to?

42 A. Yes.

43
44 Q. Does that indicate, as it seems to, that you were
45 reviewing material at that time?

46 A. Yes, that's the first note I've got of actually
47 receiving or reviewing that material.

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Q. The next entry on that page, I wonder if you could read that on to the transcript?

A. It is in relation to talking to Joanne McCarthy, in relation to the Herald article and follow-up and I've got "police investigation" --

Q. Perhaps if you just read from where it says "Joanne McCarthy"?

A. Yes:

Joanne McCarthy re Herald article and follow-up - Police investigating. Assessment to be made - offences and evidence - decision as to who will investigate.

Q. And what does that entry indicate?

A. Essentially that I had a conversation with Joanne McCarthy --

Q. Can you tell us whether that was a telephone conversation?

A. It would have been a telephone conversation, yes.

Q. And what have you told her?

A. Essentially that in relation to the police investigation, that I had to make an assessment of the available evidence and the relevant offences and then make a decision as to who would investigate that matter.

Q. Do you recall whether she had phoned you or you had phoned her?

A. No, I don't, I'm sorry.

Q. I wonder if you could go to the next page, which is 29 April 2010?

A. Yes.

Q. There's an entry at the top there. I wonder if you could read that onto the record?

A. Yes :

Kirsti Faber re media interest - McAInden sex offences and cover-up by the Catholic Church - review.

1 Q. What does that diary entry indicate?
2 A. Essentially I was going to get Kirsti Faber to review
3 the material.
4
5 Q. So that was a statement of a plan that you had at that
6 time?
7 A. Look, I believe I would have had conversations with
8 Kristi about that. I don't know that I ever got her to
9 review the material - she may or may not have because she
10 was working on a homicide investigation at the time.
11 I know I conducted a review, as I said, of the material and
12 then forwarded it on to Newcastle.
13
14 Q. In the middle of that page, there's an entry that
15 starts with the words, "Paul Jacob"?
16 A. Yes.
17
18 Q. Can just read that entry?
19 A. Yes. Paul Jacob was a detective inspector from the
20 Sex Crimes Squad and I had rung him - - -
21
22 Q. Pausing there, could you read that entry?
23 A. Yes:
24
25 *Paul Jacob Sex Crime re McAlinden/Wilson,*
26 *back tomorrow.*
27
28 It says "back tmoz", but back tomorrow.
29
30 Q. That's just a shorthand for "back tomorrow"?
31 A. Yes, I've obviously rung him and he wasn't available
32 and he would be back not office tomorrow.
33
34 Q. Then the next line, if you could read that?
35 A. It says:
36
37 *Tim Seymour re McAlinden/Wilson.*
38
39 Q. Who was Tim Seymour?
40 A. Tim was the crime manager at Hunter Valley where the
41 original McAlinden offences occurred. I believe I've
42 attempted to contact him to speak to him about that matter
43 and also a homicide investigation we were conducting and
44 I don't recall whether I actually spoke to him or not.
45
46 Q. So it's a note here sort of either a contact or an
47 attempted contact?

1 A. Yes.
2
3 Q. And you can't tell from that which one it is?
4 A. No.
5
6 Q. When you referred to the Hunter Valley being the scene
7 of an original - sorry, what did you indicate?
8 A. I believe that's where the original McAlinden offences
9 were.
10
11 Q. Is the Hunter Valley location within the Newcastle
12 City Local Area Command or that's a different command?
13 A. That's a different command.
14
15 Q. Then there's a further entry that starts, "Craig Rae"?
16 A. Yes:
17
18 *Craig Rae update re Herald coverage -*
19 *Catholic Church cover-up and priests -*
20 *complaint received.*
21
22 And then it goes on to talk about another issue.
23
24 Q. So with that entry, we can take it that the relevant
25 entry ends with the word "received"?
26 A. Yes.
27
28 MR KELL: Commissioner, I might indicate that the words
29 after "received" will be redacted from the final version of
30 this exhibit because it doesn't relate to the matters of
31 interest.
32
33 THE COMMISSIONER: Thank you, Mr Kell.
34
35 MR KELL: Q. Craig Rae was your superintendent at the
36 time?
37 A. Yes, he was.
38
39 Q. What does that entry indicate?
40 A. Just that I told him that we received the complaint
41 and that I was going to review it.
42
43 Q. If you go to the next page, which is the next day,
44 Friday, 30 April?
45 A. Yes.
46
47 Q. Again we are in the period before you've written your

1 report of 3 May that we will come to?

2 A. Yes.

3

4 Q. Then, on that page, I think there are two entries. In
5 the middle there's a reference to Peter Gogarty?

6 A. Yes.

7

8 Q. And there's a phone number which I won't ask you to
9 read out.

10

11 Commissioner that will be redacted from the final
12 version of this document.

13

14 After the phone number, it says "Peter Gogarty re";
15 could you continue reading that?

16 A. It says.

17

18 *... re material supplied by Joanne McCarthy*
19 *in relation to McAlinden and Wilson*

20

21 Q. What does that entry indicate?

22 A. Well, it indicates that I was going to call him or he
23 had called me in relation to that matter.

24

25 Q. I think in your statement you attach as annexure B a
26 letter sent by Peter Gogarty?

27 A. Yes, that's correct.

28

29 Q. Also a letter dated 3 May 2010?

30 A. Yes, that's correct.

31

32 Q. Firstly, do you recall when you phoned Peter Gogarty
33 or he phoned you?

34 A. No, no, I don't - I don't recall speaking to him.
35 I know I received a document from him, though, and --

36

37 Q. Does this diary entry indicate to you that you did
38 speak to him or that --

39 A. It indicates, yes, that I was going to speak to him or
40 that I did speak to him. I don't recall actually speaking
41 to him.

42

43 Q. On that day?

44 A. No, I don't recall speaking to him, but I know - I
45 believe I spoke to Peter Gogarty and I received a document
46 from him which was part of the documents I forwarded to
47 Newcastle, but I don't recall the conversation.

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Q. So do you recall a conversation with Peter Gogarty around about this time?

A. I believe I spoke to him, but I don't recall speaking to him. But I have a note there at least I was going to speak to him.

Q. What is that makes you believe you spoke to him?

A. I just recollect receiving the document from him and I do believe I had a phone call from him or I to him.

Q. Attachment B to your statement is a letter dated 3 May 2010?

A. Yes.

Q. Which was obviously after this. Are you able to help us any further as to what it was that caused you to attempt to speak with Peter Gogarty on 30 April?

A. It would have only been in relation to the information that had been provided as part of the complaint.

Q. At the bottom of that page there's an entry that commences with the word "Paul Jacob"?

A. Yes.

Q. I think that entry ends at the word "Newcastle"?

A. Yes.

Q. Could you read that entry from Paul Jacob through to "Newcastle"?

A. It says:

Paul Jacob re McAlinden/Wilson matter -- not a matter Sex Crimes will look at. Can provide consultancy. McAlinden and Clarke - deceased. Hunter Valley - no. Wilson and Malone - reasonable excuse - re report up the line of command and since reported to police.

And then:

Conceal - refer to Newcastle.

Q. Pausing there, does that diary entry indicate a telephone communication with --

A. Yes, a telephone conversation with Paul Jacob, who was

1 a detective inspector at Sex Crimes. I had rung him to ask
2 him whether it was a matter that Sex Crimes would
3 investigate.
4

5 Q. By Sex Crimes, you're referring to the Sex Crimes unit
6 at the State Crime Command?

7 A. Yes.
8

9 Q. And I spoke to him in relation to a number of matters
10 related to my time at Lake Macquarie including Lozano and
11 Georgiana. My recollection was it was something that they
12 were not in a position to assist with the investigation at
13 that time, but he said, "We can provide consultancy." Then
14 we had some general discussion about the investigation and
15 some issues or impediments to the investigation and how we
16 might go about it. At the end of that conversation,
17 I believe that the decision that I made was that I was
18 going to look at the conceal offences and refer them on to
19 Newcastle Local Area Command.
20

21 Q. Where it says in the entry at the end "refer to
22 Newcastle", is that a statement made by Detective Jacob to
23 you or that's a notation?

24 A. No, that's a note I've made in relation to my thoughts
25 on the matter, that the conceal offences needed to be
26 investigated and they needed to be investigated,
27 I believed, by the Newcastle command.
28

29 Q. So that's a record of your intention at that time of
30 30 April?

31 A. Yes.
32

33 Q. The reference to, "Hunter Valley - no" can you
34 indicate what that refers to?

35 A. It's in relation to whether there needed to be any
36 further investigation regarding the initial sexual assault
37 matters and obviously the fact that the person is deceased,
38 there was no further investigation in relation to those
39 matters required.
40

41 Q. Going through that note, you start at the beginning or
42 near the beginning, "not a matter Sex Crimes will look at;
43 can provide a consultancy." Do we take it that is really
44 information being relayed to you by Detective Jacob?

45 A. Yes, they were not in a position to look at that at
46 that point in time. That may have been because of staffing
47 resources or other investigations they had going or it may

1 be a matter that they didn't think they necessarily needed
2 to investigate. I don't know the exact reasons.

3

4 Q. But you don't recall now if any reasons were given to
5 you at the time?

6 A. No, I spoke to Paul on a number of times about
7 different investigations.

8

9 Q. Then it says:

10

11 *McAlinden and Clarke - deceased, Hunter*
12 *Valley - no.*

13

14 A. Yes.

15

16 Q. Who made those statements? Was that --

17 A. No, that's just a note I made while I'm talking
18 Essentially, the "Hunter Valley - no" was that there was no
19 further requirement to investigate the sexual assault
20 matters because obviously the person was deceased, so it
21 was more about investigating the conceal.

22

23 Q. So the "Hunter Valley - no" is a reference to
24 McAlinden as a perpetrator?

25

26 A. Yes.

27

28 Q. Do you recall whether that's a statement that you made
29 or a statement that Detective Jacob made and you recorded
30 here?

31

32 A. No. It's just notes that were made during the
33 conversation.

34

35 Q. So they are not necessarily reflecting part of the
36 natural conversation - the terms of the conversation?

37

38 A. No, no.

39

40 Q. Then it says:

41

42 *Wilson and Malone - reasonable excuse.*

43

44 A. Yes, we were discussing the investigation.

45

46 Q. Then it says, "ie, report up line of command"?
47 A. Yes, we were discussing the investigations and
impediments, I suppose, or constraints that would have to
be covered within the investigation.

1 Q. So these are sort of early musings about that?
2 A. Yes.
3
4 Q. Do you remember whether they were musings that you
5 made or Detective Jacob made?
6 A. No, I don't. They were just discussions that we had
7 in relation to the investigation and potential issues.
8
9 Q. Was that an opinion that you had formed at that time
10 and held or --
11 A. That was a consideration, yes.
12
13 Q. If I could ask you to turn to Monday, 3 May, which is
14 the next diary entry.
15 A. Yes.
16
17 Q. I think there are two entries about halfway down the
18 page.
19 A. Yes.
20
21 Q. The first one begins, "Shaun McLeod?"
22 A. Yes, it says:
23
24 *Shaun McLeod re welfare issues and*
25 *McAlinden/Wilson complaint advised to be*
26 *referred to Newcastle, further*
27 *investigations.*
28
29 Q. Then I think there's a name there or --
30 A. There was a name there, yes.
31
32 Q. There was a name there that has been removed?
33 A. Yes.
34
35 Q. So "investigations", and then there is a reference to
36 a particular --
37 A. Person of interest.
38
39 Q. Yes.
40 A. And then it says, "Refer to detective sergeants."
41
42 Q. What rank did Detective McLeod hold at Lake Macquarie?
43 A. He was a detective senior constable.
44
45 Q. Had he been attached to any of the strike forces?
46 A. Yes, he had been attached to Strike Force Georgiana.
47

1 Q. In that entry you refer to welfare issues?
2 A. Yes.
3
4 Q. Well, perhaps at a more general level what does the
5 diary entry indicate?
6 A. I spoke to Shaun McLeod about some welfare issues that
7 had been raised with me and also about the McAlinden/Wilson
8 complaint and I had advised him that I would be referring
9 that matter to Newcastle for further investigation.
10
11 Q. That was a meeting that you had that day with
12 Detective McLeod?
13 A. Yes, it was.
14
15 Q. Where did you hold that meeting?
16 A. It would have been my office.
17
18 Q. The reference to "welfare issues", whose welfare are
19 you referring to?
20 A. To Shaun McLeod's welfare.
21
22 Q. What welfare issues did you have in mind when you were
23 making that notation in your diary?
24 A. Look, there was a number of issues. On 9 April
25 Shaun McLeod charged a person of interest in relation to
26 Strike Force Georgiana. The week after that, around
27 15 April, I was talking to a Detective Sergeant
28 Chad Gillies and Kirsti Faber about a number of
29 investigative issues, not just Georgiana a number of
30 issues, other strike forces and investigations. During
31 that they raised concerns in relation to Shaun McLeod's
32 behaviour that had been exhibited at the time of the arrest
33 of the person of interest on the night.
34
35 Q. So that's a report to you by your detective sergeants?
36 A. Yes. And also concerns in relation to some of the
37 ongoing dialogue he had been having with Joanne McCarthy
38 from the Newcastle Herald in relation to the McAlinden
39 matter that they had been made aware of. I had previously
40 spoken to Shaun at the time of that arrest in relation to
41 an authorised media release that he had made without
42 speaking to me about it. So there was a number of concerns
43 where he had exhibited stress and anxiety in relation to
44 some of these matters.
45
46 Q. Just pausing there, by 3 May of 2010, having regard to
47 your note of welfare issues, what were some of those signs

1 of stress and distress that you noted?
2 A. There had been some specific issues raised in relation
3 to the arrest and charge of the person of interest on the
4 9th where he didn't cope very well with the whole scenario
5 which was a fairly basic investigative step.
6
7 Q. What were the particular instances that occurred?
8 A. Oh, simple things, simple things in relation to the
9 charging process, organising the car to go and complete the
10 charge. There was a range of issues and observations made
11 by the detectives that were working with him and others in
12 the office and the detective sergeants.
13
14 Q. You referred to a difficulty with a car; what was
15 that?
16 A. Just organising a car to go up and complete the
17 interview and the charge.
18
19 Q. What was the particular stress or distress that was
20 representing to you?
21 A. He was having trouble with organising himself to get
22 that job done, and that was raised. The other issues
23 related to him not being able to focus on the task or the
24 investigation at hand and looking at other matters and
25 going off on tangents. He had already expressed an
26 interest in going --
27
28 Q. When you say "going off on tangents", that is?
29 A. Looking at other investigations, not reporting up to
30 detective sergeants and myself matters that had been
31 reported to him.
32
33 Q. Is this in the context of the investigation of sexual
34 assault, child sexual assault?
35 A. Yes, and to some extent the McAlinden matter, and he
36 had already expressed interest in going straight from this
37 investigation onto the subsequent one that I had initiated
38 being Strike Force Lazano. So I had actually spoken to
39 Shaun McLeod and to a couple of other detectives about the
40 fact that I didn't want them to continue on to any further
41 protracted sexual assault matters. I wanted them to do
42 some other different types of investigations for their own
43 welfare and their own health.
44
45 Q. Just explain that process. How would that work? So
46 you would take a particular officer off --
47 A. Not off the investigation, but when that Strike Force

1 finished, I didn't want them to become tied up with another
2 protracted sexual assault-type investigation on a strike
3 force basis.
4

5 Q. What's the reason for that?

6 A. For their welfare and particularly with Shaun in
7 relation to his welfare and some of the signs that he was
8 exhibiting.
9

10 Q. Tell me if this is not correct, but is the need to be
11 alive to welfare issues a matter that particularly
12 resonates in sexual assault investigations?

13 A. Yes, I believe so. I believe it's something in my
14 role as a crime manager to look out for with all our staff.
15 The detective sergeants had raised the issue with me.
16 I know they had spoken to Shaun McLeod prior to me speaking
17 to him. So those concerns had been raised by myself on
18 3 May, and they had been raised previously with him by the
19 detective sergeants as well.
20

21 Q. I think you referred to 15 April?

22 A. That was when the issues were raised with me by the
23 detective sergeants.
24

25 Q. I think you've provided to the Commission diary
26 entries for 9 and 15 April. Could you go back to the first
27 page, which is 9 April?

28 A. Yes.
29

30 Q. Perhaps you could just read that?

31 A. Yes:
32

33 *Shaun McLeod re media release and*
34 *authorisation.*
35

36 Faber is next to it. And then the note below is:
37

38 *Bishop Malone re charging of ...*
39

40 And then that has been replaced with "NP and assistant
41 spoken to" --
42

43 Q. What does that entry indicate?

44 A. The first one is I spoke to Shaun McLeod about his
45 media release that he made in relation to that arrest,
46 which he hadn't sought any authorisation to give out to the
47 media at that stage, and normally that should come from me

1 first and then oftentimes I would do that myself.

2

3 Q. Why was that a matter of particular concern to note in
4 the diary entry?

5 A. Because I had spoken to him about it, about the fact
6 that he had made that media release without any
7 authorisation may or may not have been appropriate. At the
8 very least I would like to vet it first. The next one is:

9

10 *Bishop Malone re charging of NP*
11 *[and] assistant spoken to.*

12

13 Sorry, the one above has Faber has next to it, so I would
14 have made Detective Sergeant Faber aware of that issue, or
15 she may have made me aware of it.

16

17 Q. For relevance purposes, the entry relating to Shaun
18 ends at "authorisation"?

19 A. Yes.

20

21 Q. That's a distinct --

22 A. Yes.

23

24 Q. If you go to 15 April, I think you have an entry about
25 halfway down the page?

26 A. Yes. There was an entry above that where myself and
27 the detective sergeants were talking about a variety of
28 investigative issues but during that conversation they have
29 raised concerns in relation to Shaun McLeod.

30

31 Q. Who are the detective sergeants?

32 A. Detective senior Sergeant Chad Gillies and Detective
33 Sergeant Kristi Faber.

34

35 Q. Could you please read that entry on to the record?

36 A. Yes:

37

38 *Concerns voiced re Shaun McLeod - welfare*
39 *exhibited behaviour last Friday. Arrest*
40 *and charge of NP. Recent contact in*
41 *relationship with Joanne McCarthy re*
42 *alleged criminal complaint against Bishop*
43 *Philip Wilson and requests to assist*
44 *with ...*

45

46

47 Q. Just pausing there, for a moment. Yes?

1 A. And assist to request with another sexual assault
2 investigation, which was Strike Force Lozano. Then I've
3 got:

4
5 *Chad and Kristi to speak to next week and*
6 *offer EAP.*

7
8 Which is the employee assistance programme.

9
10 Q. What is that programme?

11 A. It's a welfare programme that's available to staff
12 when they are suffering from welfare issues or psych
13 issues, mental health issues.

14
15 Q. What was your recommendation?

16 A. Just support and making him aware those support
17 services were available if he needed them.

18
19 Q. By "him", you are referring to Detective McLeod?

20 A. Detective McLeod, yes.

21
22 Q. The first sentence, "Concerns voiced re Shaun McLeod -
23 welfare exhibited behaviour last Friday", that is an entry
24 that corresponds with the evidence that you've been giving
25 to the Commissioner?

26 A. Yes, that's correct. Basically that entry says that
27 concerns were voiced in relation to his welfare and they
28 were due to his behaviour that he exhibited on a prior
29 arrest and, also, his relationship with Joanne McCarthy re
30 the alleged criminal complaint against Bishop Wilson which
31 had come to the attention of the detective sergeants but
32 hadn't been reported to us prior to that.

33
34 Q. What was the particular concern relating to that
35 aspect?

36 A. Just the fact that he was receiving complaints and
37 making inquiries in relation to a matter and it hadn't been
38 reported or reported up.

39
40 Q. Reported up to?

41 A. To the detective sergeants. Generally speaking if a
42 crime is reported, there should be some sort of a record
43 made by way of a COPS event or otherwise. That's verified
44 by a supervisor and then we determine what sort of
45 investigation is going to be attributed to that complaint.

46
47 Q. Do you recall, as at that time 15 April 2010, what the

1 nature of the concern was in the sense of how long --
2 A. No.
3
4 Q. -- it was perceived that Detective McLeod had been
5 looking at --
6 A. No, that's the first I had heard of it. It wasn't
7 until much later that I actually received the complaint -
8 not much later but a week or so.
9
10 Q. Your recommendation was that Chad and Kristi speak
11 next week and offer --
12 A. Speak to him about some of these issues, offer
13 support, and make him aware of the support services that
14 were available.
15
16 Q. Do you recall whether the support services were made
17 available, whether that was brought to your attention?
18 A. They are available. It's up to them to make contact.
19
20 Q. Do you recall receiving any report from your detective
21 sergeants about support services and what had been said
22 that following week - what had been said in any meetings by
23 Detective Chad and Detective Kristi in the meeting the
24 following week, as you proposed, with Detective McLeod?
25 A. I know they met with him and I know support services
26 were offered and likewise they were when I spoke to him on
27 3 May. I don't recall specifically but I think he may have
28 already been seeking some sort of assistance already.
29
30 Q. Pausing there, Detective McLeod subsequently went off
31 work?
32 A. Yes, in June or July of that year I believe.
33
34 Q. On medical grounds?
35 A. Yes.
36
37 Q. After he went off work, your recollection is
38 about June or July?
39 A. Yes, roughly. It wasn't long afterwards.
40
41 Q. Did he return at any time?
42 A. No, not that I recall. No.
43
44 Q. Is it the position that he subsequently has been
45 medically discharged from the force?
46 A. I believe so, yes.
47

1 Q. If you could go back to your entry of 3 May 2010, you
2 indicated there:

3

4 *Shaun McLeod re welfare issues and*
5 *McAlinden/Wilson complaint advised to be*
6 *referred to Newcastle.*

7

8 A. Yes. I've got:

9

10 *Review McAlinden/Wilson matter -*
11 *Complete --*

12

13 Q. Just on the entry above that, which is the meeting
14 with Detective McLeod --

15 A. Yes.

16

17 Q. -- did you advise him that the matter was to be
18 referred to Newcastle?

19 A. Yes, I told him on that day:

20

21 *Advised to be referred to Newcastle.*

22

23 Q. Did you have any discussions with Detective McLeod
24 about his involvement in clerical abuse matters?

25 A. I did have conversations with him about that matter -
26 about those issues. I don't recall it was on that date,
27 but I definitely had conversations with Shaun that I didn't
28 want him to be involved with any other protracted
29 investigations of that nature for the welfare issues.

30

31 Q. That was on or about that day, was it - if not this
32 day, around that time in early May?

33 A. Over probably the months prior and after, yes,
34 I definitely had conversations with him about that.

35

36 Q. I think you indicated to the Commissioner that you had
37 said to him that you didn't want him involved in any
38 protracted sexual assault investigations.

39 A. That's correct, yes.

40

41 Q. What did you say to Detective McLeod as best you can
42 recall?

43 A. I can't recall the exact nature of the conversation,
44 but essentially it was that, due to the issues I've already
45 spoken about and the behaviours displayed and the fact that
46 we had these concerns, I didn't want him undertaking any
47 further protracted investigations - and it wasn't just

1 Shaun that I discussed those issues with; I discussed them
2 with other people as well.

3
4 Q. You said to him, in effect, that you didn't want him
5 to be involved in any further --

6 A. Of a protracted nature. That was to protect his
7 welfare. Obviously, in a busy detectives' office, they
8 were still going to get involved in sexual assault
9 investigations, but I didn't want him to get tied down with
10 an extensive protracted-type investigation.

11
12 Q. As a statement from a senior officer to a detective
13 senior constable, was it your intention in making that
14 statement to him that you did not want him involved in any
15 protracted investigations of that type, that your intention
16 was that you were giving him an instruction about that
17 matter rather than, for example, just some general guidance
18 about the subject matter?

19 A. I believe I would have delivered it more as guidance;
20 but, by the same token, I would have meant that I wasn't
21 going to have him involved in another protracted
22 investigation.

23
24 Q. May we take it that as the crime manager with overall
25 responsibility for investigations that you were in a
26 position to ensure - whether it be a guidance or an
27 instruction - that your view about the matter prevailed?

28 A. Most of the time, yes.

29
30 Q. In providing that guidance or instruction, did you
31 have particularly in mind the welfare issues that you've
32 referred to in this diary entry?

33 A. That's exactly what - that was the issue, yes, the
34 only issue.

35
36 Q. When you had that discussion with Detective McLeod,
37 what was his response when you told him that you didn't
38 want him involved in any protracted investigations of a
39 sexual assault nature?

40 A. I don't believe he was happy with it. I think he was
41 accepting of it, or at least he said that he accepted it,
42 but he had already expressed an interest in going on to the
43 next strike force that we had initiated, Strike Force
44 Lozano, when he completed the Georgiana investigation; so
45 obviously he seemed very intent on pursuing those types of
46 investigations and, look, down the track --

47

1 Q. Pausing there, he expressed his unhappiness to you in
2 that conversation?
3 A. I don't recall his exact reaction, but I knew that he
4 wasn't happy with the decision.
5
6 Q. But you maintained the decision in the face of that
7 unhappiness from him?
8 A. Yeah. Look, there's no saying he couldn't go back and
9 do those investigations down the track, but I thought it
10 was important for his health and longevity to try and get
11 him to undertake other types of investigations.
12
13 Q. Other than this diary entry, which is 3 May, do you
14 recall whether you made a written record of that
15 instruction or guidance that you gave to Detective McLeod?
16 A. I don't believe so. There would have been a document
17 in relation to Shaun McLeod in medical notes or
18 welfare-style documents, but not in relation to directions.
19 It wasn't a direction as such; it was a discussion I had
20 with him
21
22 Q. I think you indicated that you had discussions of a
23 similar nature with other officers?
24 A. Yes, I did.
25
26 Q. I won't ask you to name those officers, but was that
27 around about the same time?
28 A. Yes.
29
30 Q. How many officers?
31 A. Probably at least two.
32
33 Q. Are they still serving officers?
34 A. Yes, they are.
35
36 Q. On 3 May 2010, you prepared a report, which is
37 annexure C to your statement
38 A. Yes, I did.
39
40 Q. The diary entry which I think you still have open on
41 3 May --
42 A. Yes.
43
44 Q. -- after the reference to refer to "detective
45 sergeants", there is one commencing "Review
46 McAlinden/Wilson matter. "
47 A. Yes.

1
2 Q. Could you read that sentence on to the record?
3 A. Yes:
4
5 *Review McAlinden/Wilson matter. Compile*
6 *[sic] corro...*
7
8 Q. "Compile" or "complete"?
9 A. Sorry:
10
11 *Complete corro and forward to Brad Tayler*
12 *through Craig Rae.*
13
14 Q. Is the reference there to "corro" a reference to your
15 report of 3 May 2010, which is annexure C?
16 A. Yes, it is.
17
18 Q. That confirms, does it, that the report was prepared
19 on that day and forwarded on that day?
20 A. Yes.
21
22 Q. Just for clarity, the report itself has two dates -
23 you'll see on the front cover page there is a date of 3 May
24 2010.
25 A. Yes.
26
27 Q. If you go to the end of the report after your
28 signature, there is a date of 19 April 2010.
29 A. Yes.
30
31 Q. Do we take it that we ignore 19 April essentially and
32 go to the correct date being on the front page?
33 A. Yes, 3 May was the date it was done. It's the date in
34 the diary. The 19th, it must be from another report that
35 I've copied to the macro.
36
37 Q. Prior to this report being prepared, what, if any,
38 investigations had been carried out by Lake Macquarie Local
39 Area Command in respect of what might be referred to as the
40 Joanne McCarthy documents, the matters raised?
41 A. None that I was aware of an investigation.
42
43 Q. That reflects the time period in which you had those
44 documents?
45 A. Yes.
46
47 Q. And the steps that you were taking to make a decision

1 as to who was investigating?
2 A. Yes.
3
4 Q. In the report of 3 May, you indicate in the third
5 paragraph down that you have attached to that report copies
6 of the documents received from Joanne McCarthy?
7 A. Yes.
8
9 Q. And they are forwarded with your report, are they,
10 to - first on the chain of command on the second page -
11 your superintendent?
12 A. That's correct.
13
14 Q. With the intention that they be forwarded to Newcastle
15 City Local Area Command.
16 A. Yes.
17
18 Q. What reason or reasons that you had in mind for
19 forwarding the matter to Newcastle?
20 A. The complaint related to matters of concealing serious
21 offence by the Maitland-Newcastle diocese of the Catholic
22 Church.
23
24 Q. Those were the allegations that needed to be looked
25 at?
26 A. Yes, and that fell within the Newcastle City Local
27 Area Command.
28
29 Q. Why is that?
30 A. Because that's where it was based. That's where the
31 diocese head offices were.
32
33 Q. That's a jurisdictional sort of issue, if you like?
34 A. Yes. Normally most offences are investigated where
35 they occur.
36
37 Q. So here the alleged offences, if there were offences,
38 were offences in the particular location of the Newcastle
39 City Local Area Command?
40 A. Essentially that's why it was sent there.
41
42 Q. In your experience, is the location of particular
43 alleged offences an important factor in determining who
44 will investigate them?
45 A. It's the basic form, I suppose, that we allocate most
46 investigations where the offence occurred. They will
47 investigate them; but, on occasions, we'll take on

1 investigations that relate to other commands. I know
2 Georgiana investigated matters that were within other
3 commands because that's where the persons of interest we
4 were looking at had committed offences in other commands
5 and we provided staff from other commands to look at those
6 offences, but generally speaking it will go to where it
7 occurred.

8
9 Q. So that's a first reason you identify as to why you
10 were referring the matter to Newcastle?

11 A. That's the first one.

12
13 Q. Were there other reasons?

14 A. Yes, definitely.

15
16 Q. What was the second reason?

17 A. I've documented these in my subsequent report, but the
18 issue with Lake Macquarie at that time was that there was
19 industrial action being undertaken by our detectives,
20 because of their staffing and workload. They had a very
21 high workload. There was a number of staff that I believe
22 were suffering some stress and anxiety as a result of that
23 workload. We had just completed the Georgiana
24 investigation. We had another one, which was a major
25 investigation, in Strike Force Lozano, apart from the other
26 complaint matters that we were looking at, which included
27 homicide investigation, or investigations, one major one,
28 and I just didn't think that we would be able to commit the
29 necessary resources to conduct this investigation.

30
31 Q. So it's a combination of resource and welfare
32 concerns, is it?

33 A. Yes.

34
35 Q. Just by way of comparison, are you able to assist the
36 Commissioner with the relative size of Lake Macquarie Local
37 Area Command and the Newcastle City Local Area Command,
38 perhaps in terms of number of detectives?

39 A. We had --

40
41 Q. Sorry, as at mid 2010?

42 A. At the time I think Lake Macquarie would have had in
43 the vicinity of 20 detectives.

44
45 Q. What was the comparison with Newcastle?

46 A. About 30.

47

1 Q. What about just in terms of police officers generally?
2 A. Look, very rough figures, I'd say Lake Macquarie had
3 about 200. I'm not exactly sure on Newcastle, numbers-wise
4 it would have been around the 300 mark.
5
6 Q. In terms of size of local area commands within New
7 South Wales, how did Newcastle City Local Area Command
8 rate?
9 A. It's the biggest command in the state.
10
11 Q. Is it in fact a conglomerate that reflects a merger of
12 two older --
13 A. Yes, it was a merger of two commands of Newcastle and
14 Waratah.
15
16 Q. When were they merged?
17 A. Around 2008.
18
19 Q. But as at that time I suppose, as crime manager at
20 Lake Macquarie Local Area Command you weren't --
21 A. I wasn't privy to the issues with the Newcastle Local
22 Area Command. They may have had their own staffing issues.
23 Another thing, I was about looking after the staff at Lake
24 Macquarie and looking at whether we could properly resource
25 that investigation.
26
27 Q. So putting to one side the competing demands that
28 Newcastle may well have had on their resources and you're
29 not able to assist on that, but is it correct that it's the
30 position of a smaller local area command referring a matter
31 to a larger local area command, in general terms?
32 A. It was, but that wasn't the reason it was referred
33 there.
34
35 Q. I understand. Can I ask you whether the matter that
36 was being referred would otherwise have come within the
37 terms of reference of any of the particular strike forces
38 that you had going on at Lake Macquarie as at mid 2010?
39 A. No, it didn't. It was a new investigation, so it
40 didn't fall within the terms of reference of any of those
41 existing investigations.
42
43 Q. Including Georgiana?
44 A. No, it didn't fall within the terms of reference of
45 Georgiana.
46
47 Q. Do you recall how the documents were in fact forwarded

1 to Newcastle?
2 A. It would have just gone through the internal mail.
3
4 Q. So you sent it to your superintendent?
5 A. Yes.
6
7 Q. And then it's sent on to Newcastle?
8 A. Yes, correct.
9
10 Q. You addressed your report to Detective Chief Inspector
11 Brad Tayler?
12 A. Yes, I believe so. Yes, I did.
13
14 Q. Are you able to tell us whether, other than this
15 report, did you have any particular conversations with
16 Detective Chief Inspector Tayler as at about the time of
17 this report to indicate that you were sending it and so on?
18 A. We would have - we spoke regularly about all sorts of
19 different investigation matters that crossed the commands
20 and definitely we would have discussed this matter.
21
22 Q. What position did Detective Chief Inspector Tayler
23 hold at Newcastle at that time?
24 A. He was the crime manager at Newcastle, so the
25 equivalent position of myself. He was actually at Lake
26 Macquarie prior to Newcastle.
27
28 Q. As crime manager, you spoke to him regularly?
29 A. We spoke regularly about different investigations -
30 all crime issues across the Newcastle area.
31
32 Q. Do you recall having a discussion with him about these
33 matters?
34 A. I don't recall a specific discussion, but we would
35 have spoken about it, yes.
36
37 Q. Why would you have spoken about it?
38 A. Because I forwarded the documents to him and out of
39 courtesy I would have told him that they were coming.
40
41 Q. Before they arrived?
42 A. Yes.
43
44 Q. Do you recall now his reaction when you spoke to him
45 and told him that the matter was coming?
46 A. No, I don't.
47

1 Q. I might just ask you to go back quickly to your diary
2 entry of 4 May and you refer there to a telephone
3 conversation with Joanne McCarthy.

4 A. Yes.

5

6 Q. I won't ask you to read that on to the record. I just
7 note, Commissioner, that there is a name there that will
8 need to be redacted from the final version.

9

10 THE COMMISSIONER: Thank you, Mr Kell.

11

12 MR KELL: Q. I might just ask you to hand that back for
13 a minute. I think you indicated before that was a
14 telephone conversation you had with Joanne McCarthy where
15 she had provided certain further information.

16 A. Yes.

17

18 Q. I just want to ask you whether you recall, either in
19 that conversation or a conversation at around about that
20 time with Joanne McCarthy, any discussion that you had with
21 her about the McAlinden material, and you making reference
22 to Georgiana being close to finalising but having some
23 outstanding cases, being essentially closed, and also
24 whether you recall any discussion with Joanne McCarthy
25 about that time where you may have indicated, "We do not
26 envisage prosecutions about the concealment of crimes. The
27 issues may be referred to Newcastle LAC because the events
28 occurred in that command"?

29 A. No, I don't recall that. That's not the nature of
30 this, no.

31

32 Q. When you say you don't recall it, is it your belief
33 that you wouldn't have said words to the effect that, "We
34 do not envisage any prosecutions about the concealment of
35 crimes"?

36 A. No, definitely not, because that's on 4 May, and 3 May
37 I've already reviewed the material and sent it to Newcastle
38 for further investigation.

39

40 Q. Is it possible that you had such a discussion with
41 Joanne McCarthy at an earlier point of time than 3 May in
42 those terms, in that you may have said words to the effect
43 that, "We do not envisage any prosecution about the
44 concealment of crimes"?

45 A. No, I don't believe so. No.

46

47 Q. Why is it that you believe you didn't have a

1 discussion to that effect?
2 A. Because I hadn't formulated that view at any stage.
3 Certainly, I discussed with at least Paul Jacob from the
4 previous notes issues in relation to the investigation, but
5 that's normal to any investigation, there are always issues
6 that you need to canvass and cover within the
7 investigation, but definitely I hadn't made a decision that
8 there wasn't going to be any prosecutions in relation to
9 it.

10

11 Q. If, on a hypothetical basis, you had formed such a
12 view, is it a matter that you would have discussed with the
13 media?

14 A. No, no.

15

16 Q. Why is that?

17 A. Because that's not generally my way of doing things.
18 Certainly, I had some discussions with Joanne McCarthy
19 about this matter, and I've made some notes in relation to
20 it, but I would not have said that we weren't - didn't
21 envisage any prosecutions.

22

23 Q. Again, either on that day or about that time, do you
24 recall any discussion with Joanne McCarthy where she
25 indicated that she had been contacted by a potential
26 witness who may be able to contribute material on the
27 knowledge of a number of clergy about the conduct of
28 McAlinden and that that witness was uniquely placed to
29 provide information?

30 A. Is that referring to my diary entry or is it --

31

32 Q. No, I'm just asking if you have a recollection of the
33 terms of a discussion that are not in your diary entry, and
34 I just wanted to know whether you recall that part of the
35 discussion that you may have had with Joanne McCarthy?

36 A. Sorry, could you repeat it?

37

38 Q. I will just repeat it: Joanne McCarthy said to you,
39 "I have been contacted by a potential witness who may be
40 able to contribute material on the knowledge of a number of
41 the clergy about the misconduct of McAlinden and his
42 defrocking; that that witness seems uniquely placed" --

43

44 MR RUSH: Can I ask my learned friend to ask these
45 questions one at a time, because I'm becoming a little
46 confused.

47

1 THE COMMISSIONER: Yes, Mr Kell, can you break it up so
2 it's clearer to all the parties?

3

4 MR KELL: Yes. For clarity, I indicate that I'm looking
5 at paragraph 12 of an affidavit of Ms McCarthy. If my
6 friend has that, he will be able to --

7

8 MR SAIDI: Perhaps it would be beneficial if the document
9 was put in front of him so the questions can be put in
10 context of the statements made.

11

12 MR COHEN: I object to that course. My objection to that
13 course is that during cross-examination of Detective
14 Inspector Fox and other witnesses that very issue became
15 contentious, that is to say, that it was asserted perhaps
16 sotto voce, that this was a way of coaching or leading the
17 witness and, in my submission, we should just maintain that
18 course and allow the witness to recollect as best he can.

19

20 MR KELL: Commissioner, it's not appropriate for the
21 witness to have the document of another witness. I'll take
22 it step by step.

23

24 THE COMMISSIONER: That should suffice, Mr Saidi.

25

26 MR SAIDI: Would you hear me on that?

27

28 THE COMMISSIONER: Yes.

29

30 MR SAIDI: First of all, what was put forward by Mr Cohen
31 I would ask you to disregard that entirely. What is being
32 put to the witness is his response to conversations
33 allegedly had, which are contained within I think three or
34 four clauses of the material. It's not a case of coaching
35 the witness or it's not a case of contaminating the
36 witness's proposed testimony by doing it. It's asking the
37 witness: Have a look at that conversation. Did such a
38 conversation take place or what do you say about what was
39 said in that conversation so as to give the witness the
40 context and the circumstances surrounding the particular
41 statement which was put.

42

43 THE COMMISSIONER: Mr Saidi, I don't see any difficulty at
44 this stage with the conversation being put, or digestible
45 parts of the conversation being put to the witness to say
46 whether or not that happened and, if he says he didn't,
47 what he says happened. Carry on please, Mr Kell.

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MR KELL: Q. Detective, do you understand this is a suggested conversation just in terms of a conversation that was had with you?

A. Yes.

Q. You may disagree as to the terms of that conversation, as you have done with the part that we've dealt with.

A. Yes.

Q. I'll just put in digestible form - and it's not a lengthy conversation that's recounted - and I'll just ask you whether your recollection is that that formed part of the conversation that you had with Joanne McCarthy at about that time.

A. Yes.

Q. If it's not your recollection, please let us know.

A. Okay.

Q. And the fact that I'm reading it from a document doesn't mean that it's got the imprimatur of anything beyond the fact that I'm putting it to you for your consideration.

A. Understood.

Q. I'm asking whether you recall, in a conversation with Joanne McCarthy at about that time, that is to say, on or about 4 May 2010, that Joanne McCarthy had indicated to you that she had been contacted by a potential witness who may be able to contribute material on the knowledge of a number of clergy about McAlinden?

A. I've got a diary entry on 4 May which says that, yes, I did speak with Joanne McCarthy on that day and she mentioned that she had a phone call yesterday from a victim of McAlinden who did not want to pass their details on to the police at this stage, but that she believed that their details would be on the McAlinden file, we should be able to obtain those and contact the victim that way.

Q. And that she had indicated to you that the victim was uniquely placed to provide information as a victim and a person with links to the diocese?

A. I don't recall that.

Q. And that the Herald would be running more stories about senior Catholic figures and their involvement in the

1 events leading up to October 1995.

2 A. I do recall having conversations with Joanne McCarthy
3 about the articles in the paper, because obviously we'd
4 received a file in relation to these alleged offences which
5 I was forwarding to Newcastle to investigate, but
6 unfortunately, they were in the paper and everyone knew
7 about them before we were able to actually investigate
8 them, which was disappointing and makes our job
9 investigatively a little bit harder.

10

11 Q. Do you recall whether Joanne McCarthy indicated to you
12 or said to you that specifically, "We'll be saying that the
13 list of people who knew about McAlinden, particularly in
14 1995 when he was defrocked, was extensive"?

15 A. No, I don't recall that. I don't recall the specifics
16 of it. I know there was conversations about the fact that
17 if we were going to conduct investigations it would be
18 better that it wasn't in the media prior to us conducting
19 those investigations.

20

21 Q. Do you recall whether you made a further statement in
22 the conversation to Joanne McCarthy, "It's difficult to
23 prove concealment of a crime or perverting the course of
24 justice"?

25 A. No, I did not say that.

26

27 Q. And you're quite sure about that?

28 A. Yes, the Georgiana investigation had charged people
29 with concealed serious offences.

30

31 Q. Do you recall agreeing or stating that police would be
32 assessing the information provided to establish what
33 investigations would be undertaken?

34 A. I would have said that, yes, initially, yes, because
35 I reviewed the material myself. I wouldn't have said it on
36 the 4th, because I had already reviewed it on the 3rd and
37 forwarded it to Newcastle. I didn't tell her that it would
38 be forwarded on the 4th because it hadn't been through my
39 commander yet.

40

41 Q. Until it had been through your commander you wouldn't
42 be in a position to know whether or not ultimately it would
43 be referred?

44 A. No, that's right.

45

46 Q. Finally, do you recall in a discussion with Joanne
47 McCarthy indicating or suggesting that she contact Tony

1 Townsend, Inspector Anthony Townsend?

2 A. Definitely not, not at that stage, because there had
3 been no decision made. As I said, the superintendent at
4 Lake Macquarie hadn't actually approved my report for the
5 matter to be sent to Newcastle and they hadn't accepted it,
6 so I wouldn't have been telling anyone to contact Tony
7 Townsend at that stage.

8

9 Q. Do you recall whether you yourself had had any
10 discussions with Inspector Townsend on about that time,
11 4 May 2010?

12 A. No, I don't believe I did at that stage. I certainly
13 had conversations with him later about that.

14

15 Q. Again, why wouldn't you have had conversations with
16 Inspector Townsend as at that time?

17 A. Inspector Townsend was the region operations manager,
18 and at this stage what we had was a complaint of a
19 concealed serious offence, which I was referring from my
20 command to the Newcastle command, which wasn't unusual -
21 like, regularly we take complaints of crimes and forward
22 them on to other commands, and I don't believe it was a
23 matter that would have been brought to the region's
24 attention at that stage.

25

26 Q. I just want to ask you if you can identify for the
27 Commission some further material that may have been
28 provided by you to Newcastle following the 3 May 2010
29 report. I wonder if you could go to volume 1, tab 32
30 materials.

31 A. Just also in relation to that last reply, the region
32 office and Tony Townsend would have been made aware of the
33 complaint due to the media interest, but there would have
34 been no discussion or referral of the matter to him as far
35 as the investigation goes. That was straight from my
36 command to the Newcastle command, but they would have been
37 aware of the matter in relation to the media, so he would
38 have been advised of it.

39

40 Q. But you have no recollection and don't believe that
41 you spoke to Inspector Townsend about that time?

42 A. I spoke to him almost daily or weekly so I may have
43 spoken to him --

44

45 Q. Not about this matter?

46 A. But I certainly wouldn't be referring someone else to
47 talk to him about the matter at this stage.

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Q. Tab 32, which is page 108, you'll see this that appears to be an email from you to Detective Chief Inspector Tayler.

A. Yes.

Q. Of 7 May, so that's after your report that's annexure C.

A. Yes.

Q. It says:

Brad

I have forwarded the file received from Joanne McCarthy of the Newcastle Herald to you, via internal mail.

That's a reference back, is it, to the report of 3 May?

A. Yes, it is.

Q. Your annexure C:

These complaints should accompany this file. They were sent directly to Shaun McLeod and one is from the victim named in the newspaper articles.

Any issues give me a call.

A. Yes.

Q. By this document you are forwarding on further information to Newcastle?

A. Correct.

Q. You'll see at the end of that email chain on the next page there's a reference to an email from Peter Gogarty attaching two letters relating to recent media exposure.

A. Yes.

Q. And asking for a mailing address be provided so that signed copies of the letter can be sent. From that context are you able to assist us as to whether the reference to those two letters are the documents that are annexures A and B to your statement, being a letter from Peter Gogarty of 3 May 2010?

1 A. I believe that's correct, yes.
2
3 Q. And annexure A being a letter from victim [AL]?
4 A. Yes.
5
6 Q. If you go to the next tab, tab 33, that appears to be
7 a further email from you on 10 May 2010 providing further
8 information to Newcastle.
9 A. Correct.
10
11 Q. That included information from Joanne McCarthy about a
12 second woman - referred to as a second woman who had made a
13 statement to the police?
14 A. Yes.
15
16 Q. And you forwarded that on to Newcastle on the same day
17 as you received it from Detective McLeod, that is to say,
18 on 10 May 2010.
19 A. Yes, yes, 10 May.
20
21 Q. Finally, if you go to tab 34, there appears to be a
22 further email that at least you've received from Detective
23 McLeod with information relating to a particular member of
24 the clergy and a reference in the Catholic Weekly article
25 in 2002.
26 A. Yes.
27
28 Q. Are you able to assist as to whether that information
29 would also have been forwarded on to Newcastle?
30 A. I assume so. I don't recall it, but looking at it, it
31 appears to be the same email as the previous one which was
32 forwarded.
33
34 Q. I think you may see that you may find the subject
35 matters are a little bit different.
36 A. Right, yes.
37
38 Q. Do we take it that your intention would have been to
39 forward that material on to Newcastle as well
40 A. Yes, definitely.
41
42 Q. In respect of those three emails, the new information
43 that was referred to you or provided to you by Detective
44 McLeod via Joanne McCarthy, are you able to assist as to
45 whether any investigation at all was done by Lake Macquarie
46 Local Area Command before the matter was forwarded?
47 A. Not that I'm aware of, no. It shouldn't have.

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Q. Perhaps you could close that. In paragraph 10 of your statement you refer to a later telephone conversation with Joanne McCarthy on 18 August 2010.

A. Yes.

Q. She had phoned you and you indicated had inquired as to whether you had received the subject matter of the investigation back from Newcastle.

A. Yes.

Q. I think you provided us with a diary entry on page 11 of those diary entries that have been handed up that relates to 18 August. Could you just read that entry on to the record, please?

A. Yes. Joanne McCarthy Herald re McAlinden and Wilson advised sent to Detective Chief Inspector Tayler at Newcastle.

Q. If you go to Wednesday, 18 August, which may be --

A. Yes, I have that:

Joanne McCarthy, Newcastle Herald, Catholic Church story. No comment. Not received at this stage.

Q. What does that entry indicate to you?

A. I had contact from Joanne McCarthy asking me if I had received the investigation back. I didn't know anything about it and I told her that I hadn't received it back.

Q. The reference to "no comment"?

A. That I wasn't making any comment in relation to the matter.

Q. And your reference to "not received at this stage"?

A. Yes, that's correct.

Q. Is that a notation you've made, or is that part of a conversation you had with Joanne McCarthy?

A. No, I probably would have told her that I hadn't received it at that stage. I hadn't heard anything about it. That was the first I've heard about the investigation or some suggestion that the investigation may be returned to Lake Macquarie.

MR KELL: Commissioner, is that included in the bundle

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THE COMMISSIONER: No, mine doesn't.

MR KELL: Perhaps it would be a convenient time to take morning tea and we'll make sure those two pages are copied and made available.

SHORT ADJOURNMENT

MR KELL: Commissioner, might I just raise one matter for the benefit of the parties interested here. There has been a request from the media for a copy of the statement of the officer which would not be provided, in any event, until after he finished giving evidence and I just ask that any party indicate by the end of lunchtime whether they have any position adverse to releasing that information.

THE COMMISSIONER: If the parties would consider that question between now and lunchtime, I would be most appreciative.

MR KELL: Commissioner, in the break, I've also had the opportunity to look at exhibit 6, which is the diary entries, and attend to the redactions that were necessary and also to add at the end the two further pages, which is the entry of 18 August and the entry of 30 August. Could I hand up a copy of what would be a replacement to exhibit 6?

THE COMMISSIONER: Thank you, Mr Kell.

MR KELL: Sorry, that is a copy of the proposed exhibit which will be the diary entries.

THE COMMISSIONER: Is that going to be separate from the statement of Detective Inspector Waddell?

MR KELL: Yes. I'll tender that now.

THE COMMISSIONER: The diary entries have not yet been tendered. The diary entries of Detective Inspector Waddell suitably redacted and going from 9 April 2010 and 31 August 2010 will be admitted and marked exhibit 7.

EXHIBIT #7 REDACTED COPY OF DIARY ENTRIES OF DETECTIVE INSPECTOR WADDELL FROM 9/4/2010 TO 31/8/10

1 MR KELL: Q. Detective, I think just before the break
2 I had asked you about your diary entry of 18 August in
3 which you refer to a telephone conversation with Joanne
4 McCarthy.
5 A. Yes.
6
7 Q. You indicated that it ended with the words "not
8 received at this stage". I think I'D asked you whether
9 that was a notation you had made and whether it also
10 reflected part of the conversation you had with Joanne
11 McCarthy on 18 August --
12 A. Yes. That was - I recall a phone call from Joanne
13 McCarthy asking if we had received the investigation in
14 relation to this matter back. I hadn't heard anything
15 about it being returned to us. That was the first I had
16 heard of it. So I told her I hadn't received it and
17 I didn't have any other information or any comment in
18 relation to it.
19
20 Q. I think in your statement you indicate that you had a
21 conversation following this with Inspector Townsend?
22 A. Yes, I did.
23
24 Q. And Commander Rae?
25 A. Yes.
26
27 Q. At that stage did you come to learn that it was
28 proposed that the investigation in fact go back to Lake
29 Macquarie?
30 A. Yes, there was consideration to return it to Lake
31 Macquarie.
32
33 Q. How were you informed about that, who told you?
34 A. I believe it was Tony Townsend, who was the operations
35 manager at the Northern Region - Inspector Townsend.
36
37 Q. When did he tell you?
38 A. When I made contact with him after - I can't give you
39 the specific dates, but after that conversation with Joanne
40 McCarthy I made some inquiries and there was some
41 suggestion it was going to be returned to Lake Macquarie
42 and, as a result, I spoke to Tony Townsend, who was the
43 operations manager, inspector at Northern Region, and also
44 my commander Superintendent Rae and voiced my concerns in
45 relation to that matter.
46
47 Q. We'll come to that in a moment. If you could just go

1 to annexure D of your statement. You'll see there are two
2 emails there. At the bottom of the first page there is an
3 email from you of 18 August 2010.

4 A. Yes.

5

6 Q. To Superintendent Rae copying in Inspector Townsend?

7 A. Yes.

8

9 Q. If you just turn over to the first paragraph of that
10 document, you indicate that:

11

12 *As you are both aware I am very*
13 *disappointed with the decision to allocate*
14 *the recent sexual assault investigation*
15 *relating to the Catholic Church to Lake*
16 *Macquarie for further investigation.*

17

18 A. That's right.

19

20 Q. May we take it from that that you were informed on
21 that day, that is to say, 18 August 2010, that the matter
22 was to be at that stage referred to or returned to Lake
23 Macquarie?

24 A. Yes.

25

26 Q. And that would be from a telephone conversation you
27 had on that day with Inspector Townsend?

28 A. Yes.

29

30 Q. Then you chose to take swift action.

31 A. I've discussed the issue with both he and
32 Superintendent Rae and I formulated that email to document
33 my concerns.

34

35 Q. In that first paragraph you indicate:

36

37 *I am aware that Inspector Townsend is going*
38 *to forward me the hard copy of the file and*
39 *discuss further, but I feel compelled to*
40 *voice my dissatisfaction with this*
41 *decision.*

42

43 A. Yes, that's correct.

44

45 Q. Can I ask you whether you in fact later received the
46 hard copy of the file?

47 A. No, I never received the file back.

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Q. Then I think in this document you set out various reasons as to why in your view it was not appropriate for the matter to be referred back to Lake Macquarie?

A. That's correct.

Q. Effectively, they echo the reasons you've given in evidence here today about resources - you are nodding?

A. Yes, resources, staffing, workload and welfare concerns in relation to the staff within the detectives' office at Lake Macquarie.

Q. In the second-last paragraph on that page you indicate your view:

... this investigation relates to Newcastle City and Hunter Valley and has nothing to do with Lake Macquarie and based on our available resources we are not in a position to provide an adequate investigation of this matter.

A. That's correct. I didn't think we had the resources to dedicate a number of officers to this investigation at that time.

Q. On the first page you attach also an email of 25 August from Inspector Townsend to Inspector Fay Dunn.

A. Yes.

Q. Who is Inspector Dunn?

A. She was the staff officer at the Northern Region at that time.

Q. Had you received a copy of that email - were you copied on this email at the time?

A. No, I don't believe so. I don't recall seeing it previously.

Q. When you say you don't recall seeing it previously - before?

A. Prior to my interview and evidence at the private inquiry - private Commission. It just seems to be an email discussing resourcing issues across the region.

Q. Can I ask when did you become aware that the matter had in fact been referred to Newcastle after you had sent

1 your email of 18 August?
2 A. I don't actually recall.
3
4 Q. No?
5 A. No.
6
7 Q. Was it shortly after you had sent your email, or a
8 number of weeks?
9 A. I'd be guessing. I don't recall. I know I later
10 learned a decision had been made for it to go to Newcastle,
11 but when that was specifically I don't recall.
12
13 Q. Do you remember who told you?
14 A. No, I don't. I would expect it would be Inspector
15 Townsend or Superintendent Rae, but I don't actually
16 recall.
17
18 Q. In your statement you refer to a conversation that you
19 had with Detective Chief Inspector Fox on 31 August. This
20 is in paragraph 12.
21 A. Yes.
22
23 Q. I think you make a diary entry of that conversation,
24 which is on the last page of those diary entries.
25 A. Yes. I haven't got that with me now, but it was. I
26 don't have a copy of the diary entry.
27
28 Q. If you just assume that it says:
29
30 *Peter Fox re McAlinden and Catholic Church*
31 *matter.*
32
33 A. Yes.
34
35 Q. I just want to ask you very quickly whether you recall
36 any further things about that conversation with Detective
37 Fox. First, was it a conversation by phone?
38 A. It would have been a conversation by phone, yes.
39
40 Q. You indicate in your statement that you advised him
41 that Lake Macquarie had not received the investigation back
42 and it was your belief that it wasn't going to be
43 investigated by Lake Macquarie?
44 A. That's right.
45
46 Q. Do you recall in any part of that conversation - and
47 you are allowed to say "Yes" or "No" - I just want to ask

1 whether you recall in any part of that conversation that
2 Detective Chief Inspector Fox had asked whether the matter
3 was going to be investigated because he had been told by
4 Shaun McLeod that the matter was only going to be reviewed
5 and not investigated?

6 A. No, I don't recall that.

7

8 Q. And, when you indicate you don't recall, do you have
9 any belief as to whether or not it was said?

10 A. That it was said that it was only going to be reviewed
11 and not investigated?

12

13 Q. Yes.

14 A. No, I don't believe that was said.

15

16 Q. Why is that?

17 A. I don't recall it being said.

18

19 Q. Do you think if it had been said, you would recall?

20 A. Look, I don't recall the actual conversation. I've
21 got a note in my diary that the call was made inquiring as
22 to whether we had received it back, but I don't actually
23 recall the conversation.

24

25 Q. Finally, Detective Chief Inspector Fox had told -
26 sorry, that you had told him that you had sent the
27 documents and reports to the region office and believed it
28 was going to be looked at by Detective Steel at the
29 Newcastle command?

30 A. No.

31

32 Q. No?

33 A. No. I had sent the documents to Newcastle.

34

35 Q. Yes. When you say "No" you've got no recollection --

36 A. Originally I sent the documents to Newcastle. I
37 didn't know who was investigating it and I don't recall, as
38 I said before, when I was told that Newcastle were actually
39 going to be doing the investigation.

40

41 MR KELL. Thank you, detective.

42

43 <EXAMINATION BY MR RUSH:

44

45 MR RUSH: Q. Officer Waddell, might you have a look in
46 that bundle number 1 again - that's the exhibit bundle 1 -
47 at tab 38. You'll see - it should be on page 141 - that

1 that is an email from Officer Jacob to Officer Tayler
2 apparently of 20 May. Do you have that?

3 A. Yes, I do.

4

5 Q. In the second-last paragraph it says this:

6

7 *Would you please contact him re this*
8 *matter. From what I understand from Dave*
9 *Waddell, although this inquiry/assessment*
10 *may have to be handled with diplomacy there*
11 *is no prospect of any criminal*
12 *investigation outcomes as key persons (ie*
13 *the offender and decision maker within the*
14 *church) are both deceased.*

15

16 A. Yes.

17

18 Q. Would you agree that that conversation attributed to
19 you with Officer Jacob by Officer Jacob is broadly
20 reflective of the effect of the conversation that you set
21 out in that email - that you had with Officer Jacob; the
22 conversation you had with Officer Jacob is broadly the
23 conversation that is set out in that email in terms of its
24 effect?

25 A. We had a conversation - I can't remember the date now,
26 but it was during April or May in relation to that matter
27 and we discussed some issues in respect of the
28 investigation and some impediments to it and obviously the
29 deceased persons were one of the issues with it.

30

31 Q. Do you agree that it is broadly reflective of the
32 conversation that you had with Officer Jacob?

33 A. Broadly - yes, broadly.

34

35 Q. And, indeed, that you had told Officer Jacob at some
36 stage in the lead-up to 20 May that the investigation
37 needed to be handled with diplomacy.

38 A. No.

39

40 Q. Did you have a good working relationship with Officer
41 Jacob?

42 A. We didn't work directly together, but there were no
43 issues before us. I spoke to him in relation to a number
44 of investigations over time.

45

46 Q. Can you think of any reason why Officer Jacob might
47 have made that remark?

1 A. Because we had only had a brief conversation on the
2 phone in relation to this investigation and discussed some
3 issues. The original conversation I had with him was in
4 relation to whether they would be able to provide any - or
5 whether they would be able to undertake or take on the
6 investigation and they weren't in a position at that point
7 in time and we broadly discussed the specifics of the
8 investigation.

9

10 Q. Might you have simply forgotten the specifics of the
11 conversation?

12 A. I don't think so.

13

14 Q. But you're not sure?

15 A. I don't believe - I don't recall the specifics of the
16 conversation at all. I've only got my diary note in
17 relation to the conversation.

18

19 Q. And your diary note doesn't record that detail, does
20 it?

21 A. It records --

22

23 Q. I withdraw that question. Do you recall telling
24 Officer Jacob that there is no prospect of any criminal
25 investigation outcomes as key persons, ie, the offender and
26 the decision maker within the church are both deceased?

27 A. No. No. I recall telling him that both persons were
28 deceased, but we hadn't conducted any investigation in
29 relation to the complaint at that stage. That was a
30 problem in relation to the investigation that would have to
31 be considered during the course of it.

32

33 Q. By 20 May had you read the documents that comprised
34 the complaint?

35 A. Yes, I had perused the documents. I reviewed them and
36 I forwarded them to Newcastle for further investigation on
37 3 May.

38

39 Q. When you answered earlier that you were in broad
40 agreement as to the effect of the conversation, what broad
41 agreement --

42

43 THE COMMISSIONER: Broadly reflective, Mr Rush.

44

45 MR RUSH: Q. When you indicated earlier that it was
46 broadly reflective of the conversation, what aspects of the
47 bits I've read were broadly reflective from your memory?

1 A. That we had a discussion in relation to the
2 investigation and there were some issues in relation to the
3 fact that some of the key persons were deceased.

4
5 Q. Can I refer you to your diary note of 30 April, and
6 this is on page 5 I think of exhibit 6.

7 A. Yes.

8
9 Q. In that you note that McAlinden and Clark are
10 deceased?

11 A. Correct.

12
13 Q. And "Wilson and Malone reasonable excuse".

14 A. Correct.

15
16 Q. Does that assist you in your memory of the
17 conversation that you had with Jacob, and particularly the
18 assertion apparently made by Jacob in that email that you
19 said those words that he attributes to you?

20 A. Yes, they were the problems with that investigation.

21
22 Q. Might it have been, given your notation in the diary,
23 that in fact that is exactly what you had told Officer
24 Jacob; that is, that the matter would need to be handled
25 with diplomacy and that there was no prospect of any
26 criminal investigation outcomes, as key persons were
27 deceased?

28 A. No. What was discussed was that there were some
29 issues in relation to the investigation, but definitely not
30 that there was no prospect at all of any outcomes.

31
32 Q. Does it concern you that Officer Jacob would have made
33 that comment and that the investigation might have
34 proceeded with your comments recalled in that way by him?

35 A. I think the outcome of the investigation couldn't be
36 predetermined. I mean, the investigation had to take its
37 course, so we conducted the investigation to find the truth
38 of the matter and, until that investigation takes place, in
39 the planning stages, obviously we consider some of the
40 constraints and impediments to any investigation, so we
41 address those within the course of the investigation.

42
43 Q. Does it concern you, though, that Officer Jacob might
44 have continued in his role in the investigation labouring
45 under his apprehension that that was your view?

46
47 MR SAIDI: I object.

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MR RUSH: I withdraw the question.

Q. I put to you, Officer Waddell, that you in fact told Officer Jacob that the matter would need to be handled with diplomacy.

A. No.

Q. I put to you that you told Officer Jacob that there was no prospect of any criminal investigation outcomes, as key persons - the offender and the decision maker - were both deceased?

A. No, not that there were no prospects of any criminal outcomes - that they were issues to be canvassed within the investigations.

Q. Would you agree with me that there was concern broadly within those investigating the complaints and those that had supervision of them, including yourself, about the role of the media?

MR SAIDI: Commissioner I object. Bearing in mind this witness's local area command was not involved in an investigation, it is not correct to assert to him that there was an investigation which had concerns in relation to the media. The investigation was carried out by a later local area command, not his - he has made it clear there was no investigation by him.

THE COMMISSIONER: Can you rephrase the question, Mr Rush?

MR RUSH: I can make it more confined perhaps.

Q. You were concerned, were you not, about statements that may have been made by officers investigating the matter to the Newcastle Herald?

A. Yes.

MR SAIDI: Commissioner, he was concerned about Mr McLeod being concerned. McLeod was not investigating the matter. It needs to be more accurate than what is being put about "officers investigating the matter". McLeod was not, or if he was, he was doing it without the knowledge of this witness.

THE COMMISSIONER: Is it Mr McLeod that you are referring to, Mr Rush?

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MR RUSH: It is, and he had been handed the documents and that might be the issue. I'll simply put it again.

THE COMMISSIONER: All right.

MR RUSH: Q. Were you concerned about the media's involvement with the officers that had a role to play in the carriage of the complaint?

A. I was concerned about Shaun McLeod's involvement and his relationship with the media and the fact that this complaint was already in the media prior to the investigation.

Q. Would you agree with me that the media's involvement was embarrassing for the local area command?

A. No, not at all. I don't think it's embarrassing in any way. I think it was unfortunate that it was in the media prior to the matter being investigated, because it just makes the investigation - poses more problems to the investigation. Ideally, you want to conduct an investigation and people not be aware that you are conducting an investigation until you get to the stage where you wish to speak to those persons. So it made the investigation harder - or it would have made the investigation harder.

Q. It wasn't a pleasant experience, though, for individual officers to be referred to in the media in terms of the way in which they were carrying out their duties?

A. There was no adverse criticism, I don't think, at that stage that was any concern to the police involved.

Q. Why then was McLeod chastised for his involvement with the media if, at the end of the day, there was nothing to be concerned about?

MR KELL: I object.

MR SAIDI: I object.

THE COMMISSIONER: You may tell me your objections, Mr Kell. I think I understand them.

MR KELL: The term "chastise" is pejorative and is not going to assist. Also, this area of inquiry may not be of much assistance to the Commissioner as well; whether or not

1 there was a particular chastisement of Detective McLeod in
2 relation to the conduct with the media may not be of much
3 assistance to the matters at which you are looking at in
4 terms of terms of reference No. 1.

5

6 THE COMMISSIONER: Does that reflect your objection,
7 Mr Cohen?

8

9 MR COHEN: I don't have an objection, Commissioner.
10 I wish to be heard on that proposition.

11

12 THE COMMISSIONER: Mr Saidi also had an objection.

13

14 MR SAIDI: I don't want to take up time, Commissioner.
15 I adopt what was previously said.

16

17 MR COHEN: My concern is this, Commissioner. It is put by
18 my learned friend Mr Kell, and adopted by Mr Saidi, that
19 this can't assist you. The term of reference is about
20 matters that impeded expressly Detective Chief Inspector
21 Fox. Having regard to the definitions contained within the
22 terms of reference, it does connote indirect matters that
23 may go off at a tangent and that cannot have some probative
24 value for your purposes. Attempts to shut down what would
25 occur - that approach, in my respectful submission, would
26 be a misstep subject to the question being properly
27 informed or without other objection. The relevant
28 objection is a little bit too conservative, if I may put it
29 that way, in my respectful submission.

30

31 THE COMMISSIONER: Mr Rush, I will permit you to put it
32 without the pejorative "chastise" and see how we go.

33

34 MR RUSH: Do you want to hear me on the question of
35 relevance or --

36

37 THE COMMISSIONER: Yes, thank you, Mr Rush.

38

39 MR RUSH: I can certainly amend the pejorative term;
40 that's not an issue. The relevance we assert is this: it
41 may be in the course of this Commission and this inquiry
42 that a lot of interest has been on the assertions of, if
43 you like, cover-up of cover-up - cover-up of the suggestion
44 that matters of concealment weren't investigated. But if
45 the Commission, at the end of the day, is left with
46 evidence that the investigation did go at some stage off
47 the rails but doesn't come to a view that there was

1 essentially a cover-up of a cover-up, it will assist the
2 Commission to know what did happen. What is the rational
3 explanation for why an investigation went off the rails.
4

5 It may be my submission at the conclusion of the
6 evidence taken by the Commission that a mix of the
7 legislation and its understanding, a mix of the way in
8 which the police dealt with the media, and particularly the
9 police's understanding of investigative journalism
10 essentially, a mix of resourcing, a mix of experience, a
11 mix of miscommunication, led to the result which gave the
12 impression of a more serious set of circumstances, but in
13 fact provides a rational explanation for precisely what
14 occurred.

15
16 THE COMMISSIONER: Thank you, Mr Rush. Perhaps you could
17 ask your question again and we will see how we go.
18

19 MR RUSH: Q. Officer Waddell, do you accept that Officer
20 McLeod was partially sanctioned, in part, because of the
21 way he dealt with the media?

22 A. I spoke to Detective McLeod on one occasion in
23 relation to making a media release without authorisation.
24 That was the only time that he was reprimanded or
25 sanctioned in any way and it was only a matter of telling
26 him that he needed to speak to me before he came to me and
27 told me about it. That was a media release in relation to
28 an arrest. That was the only time that has been
29 reprimanded or sanctioned in relation to the media as far
30 as I'm concerned. The other concerns were in relation to
31 him speaking to persons and receiving complaints and not
32 recording them or reporting them up.
33

34 Q. If we can deal with that issue of the way in which
35 Officer McLeod was dealt with, in your evidence you
36 indicated that there were a number of simple things that he
37 had not done correctly, as I understand it.

38 A. Was that in relation to the arrest on 9 April?
39

40 Q. The arrest, and I think there was a comment or
41 reference made about a car as well - the organisation of a
42 car?

43 A. Yes, there were a number of issues.
44

45 Q. Do you remember that evidence?

46 A. Yes.
47

1 Q. I think you referred to it as "simple things"; by that
2 did you mean little things?
3 A. Little things, yes.
4
5 Q. Wasn't it the annoyance about his contact with the
6 media that was the overwhelming reason for getting him out
7 of the matter?
8 A. What do you mean "getting him out of the matter"?
9
10 Q. Having the matter reassigned from him.
11 A. Which matter?
12
13 MR SAIDI: I object. I don't think the matter was ever
14 assigned to him, with respect. This is proceeding on a
15 wrong premise.
16
17 THE COMMISSIONER: Yes. Mr Rush, that is true, isn't it?
18
19 MR RUSH: If the Commission would just excuse me for one
20 moment. Sorry, I'll withdraw the question and ask this
21 instead.
22
23 Q. He wanted to be involved in this investigation, didn't
24 he?
25 A. The complaint in relation to?
26
27 Q. The concealments.
28 A. Yes.
29
30 Q. You were concerned that he not be involved in that
31 investigation.
32 A. I was concerned that - to take Shaun McLeod of this
33 investigation I'd referred to Newcastle, because I didn't
34 believe that we should be doing it. It wasn't about an
35 individual officer.
36
37 Q. Can I suggest to you that one of the reasons he was
38 not assigned to investigate the matter was because of
39 concerns you had about his contact with the media?
40 A. No, that wasn't the reason. Shaun McLeod took the
41 report of this matter, it was forwarded to him. Like any
42 crime, the officer taking the report is not necessarily the
43 person who investigates it particularly if it's not being
44 investigated by that command.
45
46 Q. Officer Waddell, were you concerned about the
47 reputation of senior clergy in circumstances where, in your

1 view, those clergy had made efforts to improve their
2 church's practices with dealing with matters of this
3 nature?

4 A. I'm sorry, I was concerned about?

5

6 Q. You were concerned about the reputation of senior
7 clergy in the church in circumstances where, in your view,
8 those clergy had made efforts to improve church practices.

9 A. I don't know that I would be concerned about their
10 reputations, no. It wasn't a matter for my consideration.

11

12 Q. I ask you to have a look at a document at tab 30A.

13 A. Yes. That's my statement.

14

15 Q. If you could turn to the next page, page 105(d), the
16 third last paragraph.

17 A. Yes.

18

19 Q. You note there:

20

21 *The current Bishop of Newcastle Maitland*
22 *diocese of the Catholic Church, Bishop*
23 *Michael Malone has publicly acknowledged*
24 *victims of the Catholic Church, including*
25 *those of Father McAlinden. He has further*
26 *made public comment that he could have*
27 *handled matters of sexual assault better.*
28 *Bishop Malone has cooperated fully with the*
29 *investigation of Strike Force Georgiana, as*
30 *did Zimmerman House, a child protection*
31 *unit of the Maitland-Newcastle Diocese of*
32 *the Catholic Church, established by Bishop*
33 *Michael Malone. Since these reports the*
34 *Australian Catholic Bishops Conference has*
35 *developed "Towards Healing", a*
36 *comprehensive policy and procedure for*
37 *dealing with abuse allegations.*

38

39 How, if you weren't concerned for the reputation of the
40 clergy involved, was that relevant to the investigation in
41 your mind?

42

43 MR SAIDI: I object, and additionally it's an unfair
44 question. Perhaps the witness could be directed towards
45 the last sentence of the next paragraph where this witness
46 indicates the matter is referred for further - any further
47 investigation. With respect, he is misleading the witness.

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THE COMMISSIONER: Mr Saidi, the witness is aware of his document and is now reminded of that part, so I will permit him to answer the question. Thank you.

Q. Inspector, are you able to answer that question?

A. Yes, can you repeat it.

MR RUSH: Q. Given what you've said in that third-last paragraph, how do you say that the matters that you have set out there were relevant to the investigation in your mind?

A. They were relevant because Bishop Malone would become a person of interest in the investigation and the fact that we had had dealings with him and the nature of those dealings would be relevant consideration for the subsequent investigation.

Q. You wrote that, didn't you, because you thought it was relevant to the investigation?

A. Yes, it is relevant, and relevant --

Q. How do you say it is relevant?

A. Because it gives some background as to the nature of our dealings with him as to how he may have reacted or been dealt with during the course of the investigation.

Q. Would you agree with me that those matters are properly matters that would be dealt with in mitigation of any finding?

MR SAIDI: I object to the question. It's too broad, too indefinite and too uncertain.

THE COMMISSIONER: Yes, it is, Mr Rush, I agree - it is speculative.

MR RUSH: Perhaps I don't need to take it any further. It is really a matter for submissions.

THE COMMISSIONER: Yes, thank you.

MR RUSH: Q. In evidence-in-chief you were directed to a conversation with Joanne McCarthy of 4 May 2010. I might just go through that with you again.

A. Yes.

1 Q. I put to you that, in a conversation with Joanne
2 McCarthy of 4 May 2010, you told Joanne McCarthy Georgiana
3 is finalising some outstanding cases but it is essentially
4 closed.

5 A. That would be potentially correct, yes. That was the
6 status of Georgiana at that stage.

7
8 Q. And you told her: We do not envisage any prosecutions
9 about the concealment of crimes.

10 A. We actually did charge someone with a concealed
11 serious offence, but in relation to this matter we weren't
12 going to investigate it further. On 3 May I had already
13 referred this matter on to Newcastle, so prior to that
14 conversation, so Georgiana wasn't going to investigate any
15 further offences in relation to this matter, no.

16
17 Q. This matter was the principal matter, that is, the
18 strike that became Strike Force Lantle was the one charged
19 with investigating principally the concealment of crimes?

20 A. Later, yes.

21
22 Q. Indeed, the material that was the base for the
23 commencement of that operation or strike force had been
24 provided to you.

25 A. Yes.

26
27 Q. Can I put it to you that what you said to Joanne
28 McCarthy was that you did not envisage any prosecutions
29 about the concealment of crimes.

30 A. Not in relation to that investigation, because that
31 investigation hadn't even commenced.

32
33 Q. Are you saying that you might have said that, but in
34 relation to Georgiana?

35 A. I may have said that Georgiana wasn't going to
36 investigate the concealment of any crimes although we had
37 actually charged someone with a concealment offence.

38
39 Q. As a result of that investigation - Georgiana?

40 A. Yes, as a result of the Georgiana investigation, but
41 we weren't investigating any further matters of concealment
42 at that stage.

43
44 Q. That you further said to Joanne McCarthy:

45
46 *The issues may be referred to Newcastle*
47 *Local Area Command because the events*

1 *occurred in that command..*

2

3 A. I potentially may have said that. That's the file
4 I completed the prior day.

5

6 Q. That Joanne McCarthy had said to you:

7

8 *I have been contacted by a potential*
9 *witness who may be able to contribute*
10 *material on the knowledge of a number of*
11 *clergy about the misconduct of Denis*
12 *McAlinden and his defrocking.*

13

14 A. I don't recall that, but I do have a diary note in my
15 diary in relation to her stating that she had spoken to
16 another witness but they didn't want to provide their
17 details at this stage but we would be able to obtain them
18 from the original McAlinden file, so I made a note of that.

19

20 Q. So it is possible that that was what was said by
21 Joanne McCarthy to you?

22

23 A. Yes.

24

25 Q. And that she further went on to say:

26

27 *She seems uniquely placed to provide*
28 *information as a victim and a person with*
29 *links to the diocese.*

30

31 Do you agree that that was something that Joanne McCarthy
32 said to you on that occasion?

33

34 A. I don't recall that.

35

36 Q.

37 *The Herald will be running more stories*
38 *about senior Catholic figures and their*
39 *involvement in the months leading up*
40 *to October 1995.*

41

42 A. Again, I don't recall that, but I know at some stage -
43 I don't know what date - that I did have some discussions
44 with Joanne McCarthy about the fact that the media coverage
45 wouldn't help the investigation.

46

47 Q. And specifically, going on again, what I'm suggesting
 to you is that these are words said by Joanne McCarthy to
 you in that call of 4 May:

1
2 *Specifically, we will be saying that the*
3 *list of people who knew about McAlinden,*
4 *particularly in 1995 when he was defrocked,*
5 *was extensive, includes current Bishop*
6 *Michael Malone and goes beyond the*
7 *Maitland-Newcastle diocese.*

8
9 A. I don't recall specifically that.

10
11 Q. But it could have been said?

12 A. It could have been said.

13
14 Q. Do you recall saying to Joanne McCarthy, again in this
15 conversation of 4 May:

16
17 *I feel sorry for Michael Malone in this.*
18 *He has been supportive of the police during*
19 *our investigations so far.*

20
21 A. No, I don't recall saying I felt sorry for him. I may
22 have said he's been supportive during our current
23 investigations, because he had been quite forthcoming with
24 us in assisting with Strike Force Georgiana.

25
26 Q. And that Joanne McCarthy had said:

27
28 *I agree and I've spoken to him and written*
29 *about his leadership on this issue in the*
30 *last couple of years. But he is also a*
31 *representative of a church which has*
32 *betrayed many people.*

33
34 Do you recall Joanne McCarthy --

35 A. No, I don't recall it.

36
37 Q. Might it have been said?

38 A. It could have been. I don't recall it.

39
40 Q. I put to you that it was?

41 A. I don't recall it.

42
43 Q. You said:

44
45 *It's difficult to prove concealment of a*
46 *crime or perverting the course of justice.*
47

1 A. No, I didn't say it's difficult to prove it.
2 Obviously we had charged people under Georgiana with
3 conceal offences.
4

5 Q. I put to you that it was said.

6 A. I don't recall saying that, no.
7

8 Q. Joanne McCarthy then said:
9

10 *I accept that. But based on the documents*
11 *alone, putting aside the number of*
12 *witnesses who will provide statements ...*
13

14 I withdraw that question.
15

16 Officer Waddell, I came earlier to the document at
17 tab 30A.

18 A. Yes.
19

20 Q. And the third-last paragraph of that document. Just
21 by way of clarification, there is a date of 3 May at the
22 top of that document. Under your signature on page 2,
23 there is a date of 19 April 2010. Is that just a typo, or
24 was that the date you drafted it but it was actually sent a
25 couple of weeks later?

26 A. No. That's a typo. It's obviously from a previous
27 report on the same macro.
28

29 MR RUSH: Thank you.
30

31 THE COMMISSIONER: Thank you, Mr Rush. Mr Cohen?
32

33 **<EXAMINATION BY MR COHEN:**
34

35 MR COHEN: Q. Chief inspector, in your daily activities
36 as a police officer you consider yourself to conduct your
37 daily affairs in a careful and precise way?

38 A. I try to, yes.
39

40 Q. In the conduct and discharge of those daily duties,
41 you exhibit that care and attention to detail for those of
42 whom you are the leader?

43 A. Yes, I try.
44

45 Q. Is it your practice to record all matters of
46 importance or significance to you in that daily discharge
47 of duties in writing?

1 A. I try to record things in writing, yes, but it depends
2 on again how busy you are, whether you actually do get the
3 time to record things in detail or not just depends on the
4 day.
5
6 Q. Pressure of work might lead you to letting something
7 slip through?
8 A. Definitely.
9
10 Q. Is the only source of such recording your diary that
11 has been referred to, exhibit 7?
12 A. There are diary entries, sit reps and other memoranda
13 and correspondence.
14
15 Q. Sit reps are a formal system entry, are they not?
16 A. Correct.
17
18 Q. They get a document number of some unique type?
19 A. Yes, they do.
20
21 Q. Are they a TRIM system entry or another system?
22 A. It's another system.
23
24 Q. The other documents you are referring to, do you mean
25 such as the materials that are provided to you via senior
26 Detective Constable McLeod from Joanne McCarthy, to which
27 you referred a moment ago in your answer?
28 A. Yes.
29
30 Q. It's the case, isn't it, for the sake of the
31 Commissioner's understanding of daily practice, for
32 officers of your rank and above - and you are the first
33 level of commissioned officer?
34 A. Yes.
35
36 Q. So commissioned officers, inspectors of that rank and
37 above have the heavy, if not universal, and sole reliance
38 upon the diary for the purposes of recordings?
39 A. I think some commissioned officers will use duty books
40 or some would usually use duty books, but I don't, I keep a
41 diary.
42
43 Q. The bulk of people, in your understanding and
44 experience, of a commissioned rank tend not to use duty
45 books for such reports?
46 A. Some still use duty books as a matter of course.
47

1 Q. Perhaps very old hands might use a duty book;
2 otherwise it is a diary issued by the department?
3 A. Yes.
4
5 Q. Those diaries are logged and kept in a systemic way by
6 the Police Force?
7 A. No, individual officers keep their own diaries.
8
9 Q. At liberty to do with them what they will?
10 A. Yes.
11
12 Q. Is that what you do?
13 A. Yes.
14
15 Q. Is it possible for members of the public to get a look
16 at the diary?
17 A. No.
18
19 Q. How can you be sure?
20 A. Because I keep it with me.
21
22 Q. At all times?
23 A. Either in the office or in my bag at home, yes.
24
25 Q. Have you ever lost a diary?
26 A. No.
27
28 Q. Never, ever?
29 A. No.
30
31 Q. In respect of the statement that you have given and
32 has been admitted into evidence, was it prepared by you?
33 A. The statement?
34
35 Q. Yes.
36 A. I was conferenced with the solicitors representing.
37 The statement was prepared during that conference. It was
38 then forwarded to me and I went through it, made any
39 alterations, signed it and returned it.
40
41 Q. When did that process start?
42 A. When?
43
44 Q. Yes.
45 A. I haven't got the exact date here. I signed the
46 statement on 18 March though.
47

1 Q. When did the process start?

2 A. I haven't got the date here with me.

3

4 Q. Don't you say in your statement in paragraph 2 that
5 you were served with a summons on 16 March - is that not in
6 your statement?

7 A. Correct.

8

9 Q. So all of this was in two days flat, was it?

10 A. I'd have to check the dates. I can't tell you the
11 dates without referring to my diary. As I said, it would
12 be in my diary.

13

14 Q. I think more than two days surely.

15

16 MR SAIDI: Commissioner, I object to this type of
17 question. I object on the basis of relevance. Unless
18 there is a reason for taking --

19

20 THE COMMISSIONER: Mr Cohen, is there a reason? It may
21 not take longer than three days to deal with if someone is
22 concentrating. What does that have to do with matters?

23

24 MR KELL: I might just indicate, Commissioner, that the
25 potential reference to a summons on 16 March is probably
26 inadvertently misleading in the sense that the summons is a
27 vehicle by which the Commission is able to effectively
28 compel or obtain production of a statement under a process
29 envisaged by the Act, so it's not a necessary indicator
30 that a statement was prepared within two days.

31

32 THE COMMISSIONER: Detective Inspector Waddell may well
33 have known that he would be possibly giving evidence before
34 me well before that date; is that right?

35

36 MR KELL: It's possible, Commissioner, yes.

37

38 THE COMMISSIONER: Yes, the question may be misconceived
39 in that the summons does not necessarily indicate the first
40 day upon which the witness may have become aware of the
41 need to complete the statement.

42

43 MR COHEN: My question was founded upon the apparent
44 chronology of the statement. I have my answer, but it
45 seems extraordinary it was done within two days.

46

47 MR SAIDI: Could I ask my friend to keep his comments

1 about what is extraordinary to himself rather than say it
2 in this arena. If he wants to make a statement, let him
3 make it at the end of the day and not now.

4
5 THE COMMISSIONER: Thank you.

6
7 MR COHEN: Q. A crime manager - which is your position
8 for about the last six years, is it not --

9 A. Correct.

10
11 Q. -- has a diverse range of tasks to discharge on a
12 daily basis; is that right?

13 A. Yes.

14
15 Q. It's first, possibly foremost, as you told the
16 Commissioner, in your view, a strategic management
17 position; is that right?

18 A. Yes, that is the first role.

19
20 Q. That's the first role?

21 A. Well, it's the overriding role. On a day-to-day
22 basis, it's certainly not the first role.

23
24 Q. Could you just explain to the Commissioner if it's not
25 the overriding role, what then is the first role?

26 A. We have a responsibility for the strategic management
27 of crime within the command, which includes the volume
28 crime and proactive strategies to address those crimes as
29 well as preventive-type measures, but we are also
30 responsible for the management of major investigations and
31 serious crime and major crime.

32
33 Q. I take it that conceptually the reason why you get up
34 to come on to work each day, having regard to the fact that
35 you are the crime manager, is the incentive of reduction of
36 crime; is that a way fair of putting it?

37 A. Correct.

38
39 Q. The less the better?

40 A. Yes.

41
42 Q. In the ideal world, you would like to see yourself out
43 of a job; is that the case?

44 A. Yes, that's correct.

45
46 Q. Would you call crime reduction a critical strategy?

47 A. Crime reduction is a strategy, yes.

1
2 Q. But a critical strategy - that sort of active emphasis
3 I'm putting on it, would you call it that?
4 A. No, I'm not.
5
6 Q. Would the strategy, as you put it, of crime reduction
7 include developing what I would describe as a hierarchy of
8 needs such as deciding whether it was better to reduce the
9 number of armed robberies in a local area command rather
10 than focusing on perhaps the number of vandalising wheelie
11 bins.
12
13 MR KELL: I object, Commissioner. I'm not sure questions
14 of this nature are going to assist the Commission. At the
15 moment it is difficult to see the relevance of this witness
16 being asked about the strategies to do with armed robbery.
17
18 MR COHEN: I can say that I have a forensic purpose and --
19
20 THE COMMISSIONER: Do you, Mr Cohen?
21
22 MR COHEN: I do.
23
24 THE COMMISSIONER: Will we get to it fairly presently?
25
26 MR COHEN: I need to work through a series of propositions
27 to do that.
28
29 THE COMMISSIONER: All right. Mr Cohen, I'll permit you
30 to do that.
31
32 MR COHEN: I'm not sure I understand what the concern
33 about that is.
34
35 THE COMMISSIONER: I'm not inquiring into the general
36 duties of the crime managers in New South Wales and what
37 they are aiming at every day, but --
38
39 MR COHEN: No. You are inquiring into what impeded a
40 crime manager. In my submission, to understand properly
41 what the crime manager's position is or is not, you need to
42 be informed about what the conduct of that role is, and
43 that's what I'm endeavouring to elucidate from someone who
44 is expressly in the job as we speak. That's my purpose,
45 but I apprehend, unless I'm terribly wrong about this --
46
47 THE COMMISSIONER: You may continue, Mr Cohen.

1
2 MR COHEN: Q. You didn't answer the previous question.
3 You want to focus on reducing serious crime not petty crime
4 I take it?
5 A. Reducing all crime.
6
7 Q. But presumably serious crime is a crime rather than a
8 petty crime such as vandalising a wheelie bin?
9 A. That would depend on the crime environment and the
10 types of crimes being committed.
11
12 Q. You as crime manager and your ilk would provide key
13 advice in formulating the strategy for crime reduction.
14 That must be right?
15 A. Yes.
16
17 Q. Having formulated it, the crime manager also has
18 control over the implementation of that policing policy as
19 part of the local area command's strategy?
20 A. Oversight and managing it, yes.
21
22 Q. The crime manager would keep that policy, having been
23 designed and implemented, under constant review?
24 A. Yes, we --
25
26 Q. It's an ongoing --
27 A. We continually monitor trends and --
28
29 Q. It's an ongoing process. You don't take your eye off
30 the ball. Having produced the policy, you make sure it
31 works; is that right?
32 A. Yes.
33
34 Q. A further task and another one of the tasks, a
35 procedural or daily practice task, is the crime manager
36 manages the crime management unit within the LAC; is that
37 so?
38 A. Correct, yes.
39
40 Q. Your concern is that the crime management unit then
41 reports efficiently to you?
42 A. All sections should be working efficiently ideally.
43
44 Q. Is it your experience that it is enough just to be
45 behind a desk to understand that the crime management unit
46 operates efficiently or do you need to get out in the field
47 from time to time?

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MR SAIDI: Could I object. About 10 questions ago, my friend used the phrase for legitimate forensic purpose or relevance of these line of questions. Ten questions later it's certainly been made clear to me, although I must say it may just be me, but it doesn't appear to be relevant at this stage.

THE COMMISSIONER: I gather the questions aren't directed to whether a crime manager may at times get his or her hands dirty on investigative matters.

MR COHEN: That's it in a nutshell.

THE COMMISSIONER: I'll permit it for another couple of questions, perhaps not 10, Mr Cohen.

MR COHEN: Q. You heard what the Commissioner said. Do you agree?

A. Yes.

Q. Do you get out in the field?

A. Sometimes, yes - more so for major events or major investigations and operations, yes.

Q. Those major events you described earlier in your evidence, were they events that relate to some sorts of issues like a critical incident where a police operation had gone wrong and someone had been hurt?

A. That would be one.

Q. That's all you said in answer to the questions from my friend Mr Kell. You didn't identify anything else. Why was that?

MR SAIDI: I object. Look, it was put by Mr Kell the critical incident - not by the witness. Mr Kell described it as "such as critical incidents". It's really unfair to suggest that this witness didn't put it forward when it was the questioner who indicated it.

THE COMMISSIONER: Yes, it was put forward by Mr Kell, but I think that the witness was unable to think of any other situations in which he would be involved in investigations himself. Is that your recollection of the course of the evidence, Mr Kell?

1 MR KELL: I'm not certain it was limited specifically, but
2 the questions were in the context at that time as I recall
3 of having a substantive investigative role rather than -
4 and there may be a difference between that and going out
5 and doing certain things in the field. I think in fairness
6 to the witness, that distinction may need to be explored.

7
8 MR COHEN: I'll do just that.

9
10 MR KELL: There may be an important difference between the
11 two.

12
13 THE COMMISSIONER: The difference between going into the
14 field to supervise --

15
16 MR KELL: To make a single observation about something
17 versus having a substantive role in an investigative
18 matter.

19
20 MR COHEN: Q. You heard that exchange. What do you
21 define as a critical incident?

22 A. A critical incident?

23
24 Q. That was your term?

25 A. A critical incident is where a police officer is
26 killed or injured during the course of a police operation
27 and a police officer is assigned as the chief investigating
28 officer in relation to those matters. That would be the
29 only time that I would foresee a crime manager being hands
30 on actually interviewing persons other than a complaint
31 investigation. In relation to other major operations or
32 investigations, we are certainly out there leading,
33 managing, but we are not hands on investigating. That was
34 the articulation that I was making.

35
36 Q. To understand that so there is no misunderstanding,
37 because these are conceptually somewhat difficult concepts
38 or issues, are you limiting the idea to a critical incident
39 where you would become personally involved? You wouldn't
40 become involved in anything beyond that defined area of
41 critical incident; is that right?

42 A. You mean in relation to --

43
44 Q. Anything else. The fact that there is no officer
45 killed on duty or injured badly in some sort of operation,
46 absent that, would you be involved --

47 A. Involved all the time.

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Q. I'm sorry, I don't mean as a supervisor, I mean actively involved yourself doing some of the tasks at the coalface?

A. Generally speaking, yes.

Q. Do you agree that part of the role is leading and directing complex sensitive investigations as required?

A. Yes.

Q. That's not limited to critical incidents, is it?

A. No.

Q. Then why do you impose this factor of critical incidents to leading and directing complex sensitive investigations?

A. Because, as I said before, that's the only scenario where I can see where, as a crime manager - that and a complaint investigation - I would be physically interviewing or taking versions from a witness, person of interest or another officer. In relation to a homicide or any other major investigation, I would be out in the field managing and leading particularly in relation to crime scenes, but I won't be conducting interviews with persons of interest and taking witness statements.

Q. When you say "out in the field managing and leading", do you mean when something occurs you are called and you attend the scene to look at what's going on?

A. That's correct.

Q. But not to be involved in any form of investigation of that scene either at the time or subsequently?

A. No. Essentially the role is leading and managing.

Q. Leadership is about leading from the front, isn't it?

A. Yes.

Q. Can you explain to the Commissioner how it is you could lead a team if you are not there at the front from time to time?

A. You are there at the front from time to time particularly in relation to major operations and investigations. The distinction that is being drawn is when you are actually involved taking statements and interviewing. That was the distinction that was made.

1 Q. You say you are leading from the front, but aren't you
2 up in the heights looking over the back field rather than
3 actually being involved in the day-to-day events?
4 A. To some extent, yes.
5
6 Q. Does that not run the risk of leading you to a
7 position where you think you know what's going on from day
8 to day, but you don't actually know because you are not
9 getting your hands dirty?
10 A. No, I don't think so.
11
12 Q. To use a terrible word, are you intellectualising this
13 process and thinking about what is so but not knowing what
14 is so?
15 A. I believe I know what's so within my command.
16
17 Q. But not at the coalface - not from direct experience
18 at the coalface; is that right?
19 A. Yes, from being at the coalface. All I'm saying is
20 that I'm not involved in the actual investigation, in
21 interviewing victims, witnesses and offenders.
22
23 Q. So if the terrible situation arose that you were being
24 fed a story by a direct report rather than the facts, would
25 you know, could you know?
26 A. Yes, I review interviews, I review statements,
27 I review proofs of evidence regularly. I sit and watch
28 interviews.
29
30 Q. That's not quite what I asked. If you were being
31 given a self-serving position by a subordinate to avoid
32 some miscalculation, for example, could you ever really
33 know that was the case?
34 A. I should do, yes.
35
36 Q. You should do, but could you know given that you
37 weren't there from time to time, to use the phrase again,
38 if I may, getting your hands dirty?
39 A. I think I would be in a better position having an
40 overriding view and drilling down where need be than to be
41 taking my time interviewing witnesses or offenders or
42 victims.
43
44 Q. Let me ask you this then, and I understand the
45 proposition you are putting --
46 A. If you are putting to me I should be out
47 investigating, no, that's not the role.

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Q. No, I wasn't putting that to you and lest there be any misunderstanding between us, let me clarify what I was putting. I was asking you: can you be sure, in the unfortunate case that a subordinate was feeding you misinformation, or trying to avoid it becoming obvious to you having made a mistake which they were desperate for you to avoid becoming aware of, if they did that, you are not there say 10 or 15 per cent of the time to have an idea, can you be satisfied in your own mind you could be sure they weren't spinning you a line as opposed to giving you the truth?

MR KELL: I object to the question on a number of bases, but the pejorative term, the reference to spinning a line, but, Commissioner, I'm not sure you are going to be assisted by continual questioning along these lines.

THE COMMISSIONER: Thank you, Mr Kell. Mr Cohen, perhaps no-one can be 100 per cent sure of their staff at all times.

MR COHEN: I appreciate that.

THE COMMISSIONER: I have been assisted by the evidence as it's fallen. Perhaps we could move on to another area.

MR COHEN: Is that a convenient time? I can move to another topic. I don't want to get to it and leave it, as it were, pregnant in the moment. Is that a convenient moment.

THE COMMISSIONER: We will resume on time, I trust.

LUNCHEON ADJOURNMENT

UPON RESUMPTION

MR SAIDI: Commissioner, I have an application to make if it's convenient to deal with it now. It's come to our attention that some items have been tweeted in the last 12 hours. If I can hand up a copy of the document. I have one more spare copy if anyone else needs it. Can I refer you, Commissioner, to the first document - what appears to be a tweet. It's under the name of Peter Fox, Peter_Fox59 - and you will see the contents yourself. If I can indicate in the bottom right-hand corner of the

1 document it shows the time of 1.03pm. The tweet I'm
2 referring to shows 28 minutes. On my understanding,
3 Commissioner, what that indicates is that the actual tweet
4 itself occurred at somewhere around about the 12.35pm mark.
5 One takes away the 28 minutes from 1.03.

6
7 THE COMMISSIONER: Whilst we were sitting in this
8 courtroom.

9
10 MR SAIDI: Yes, Commissioner.

11
12 (Commission adjourned temporarily)

13
14 **SHORT ADJOURNMENT**

15
16 MR SAIDI: I was making an application before that short
17 break, Commissioner, relating to some tweets brought to our
18 attention during the course of the luncheon break.
19 I handed out a document and I trust you got a copy of that
20 document, Commissioner. The top entry in relation to the
21 tweet appears to be from Peter Fox and the identification
22 is Peter_Fox59. One has reason to believe that that, in
23 fact, relates to Mr Peter Fox, who gave evidence during the
24 course of these proceedings. The tweet itself appears to
25 indicate that it was sent or tweeted at 12.35pm, which was
26 at a point of time when the court was in session or the
27 Commission was in session and prior to the break that
28 occurred.

29
30 There is a second tweet, which is the third tweet
31 down, by Mr Dan Cox, which is in similar terms or rather
32 not too dissimilar terms from that which is the top tweet.
33 That refers to the Commission hearing evidence from a
34 Detective Inspector Dave Waddell and it refers to him being
35 a cop that Mr Fox told "him to stop investigating." When
36 one goes to the tweet by Mr Fox, the tweet is:

37
38 *Detective Inspector Waddell gives evidence*
39 *that in May 2010 he was closing down Strike*
40 *Force Georgiana investigating child sex*
41 *abuse by Hunter clergy.*

42
43 By way of background, I think I can say that in the
44 context of the clients who I represent - the individual
45 police officer who, you would know, enjoy a very high rank
46 been the NSW Police Force and who, for the greater part if
47 not the entirety of proceedings up to now, including the

1 pre-Commission hearing days, have maintained a complete and
2 absolute dignified silence in relation to the allegations
3 being made - they are most distressed at the prospect that
4 what appears to be false information, which is not
5 reflective of the evidence that has been given in this
6 court and indeed is at odds with the evidence which has
7 been given in this court, is being tweeted from the very
8 court itself by a person who is making the allegations.
9 I have no hesitation on behalf of my clients in saying he
10 is making unsubstantiated allegations against them as
11 senior ranking police officers.
12

13 A tweet of this kind should never be permitted to be
14 sent from a hearing room of a special commission
15 particularly whilst a witness is in the witness box
16 undergoing examination or cross-examination by interested
17 parties. Such a tweet, in my respectful submission, has
18 the capacity not only to interfere with the workings of
19 this Commission but also could constitute a contempt of
20 court.
21

22 I choose my words deliberately, Commissioner, in not
23 saying it does constitute a contempt of court, but one is
24 entitled to be of such a strong belief that this is a
25 matter, Commissioner, which should now, in this context, be
26 referred on to the Crown Solicitor's Office, and to the
27 appropriate officer of the Crown Solicitor's Office, for
28 the person responsible for this tweeting to be dealt with,
29 advising the possibility that this person has now committed
30 a contempt of court.
31

32 The context in which I make that application is that
33 this appears now not to be the first time there has been
34 such a breach and the similar context being that my
35 clients, the senior police officers, have now had to endure
36 media reporting in a number of media outlets. I have no
37 hesitation in nominating the ABC and the Newcastle Herald
38 as appearing to report matters, or evidence in this matter,
39 which appear to be widely divergent from the evidence which
40 has been presented. Whilst I don't stand here in the
41 capacity of a Commissioner or indeed an inspector of media
42 control, it is somewhat of concern to think that reporting
43 so widely at odds with the evidence in this case is taking
44 place and appears to be continuing to take place.
45

46 Commissioner, the application is, firstly, that you
47 exercise your power and control to prevent any such

1 tweeting occurring from the courtroom itself whilst the
2 Commission is in session; and, secondly, that you give
3 consideration to referring this matter on to the
4 appropriate authority - in this case, the appropriate
5 authority is either the Crown Solicitor's Office itself or,
6 alternatively, the registrar of the Supreme Court - for
7 consideration to be given for Mr Peter Fox to be dealt with
8 for contempt of this Commission.

9

10 THE COMMISSIONER: Mr Cohen, may I ask you, firstly, is
11 this Twitter account the account of your client
12 Detective Fox?

13

14 MR COHEN: Yes, I'm instructed.

15

16 THE COMMISSIONER: Did Mr Fox send this tweet at the time
17 that --

18

19 MR COHEN: Yes is the answer to both questions. With that
20 series of fact founded by you, am I able to make some
21 submissions?

22

23 THE COMMISSIONER: Yes.

24

25 MR COHEN: There is a constitutional question which arises
26 here. Do you wish to hear the argument?

27

28 THE COMMISSIONER: I trust it won't be long, Mr Cohen.

29

30 MR COHEN: It might be. My friend has raised it. There
31 is --

32

33 THE COMMISSIONER: I will hear you, firstly --

34

35 MS LONERGAN: Commissioner, can I shortcut this because we
36 have many people in court backed up to take evidence. May
37 I make this suggestion: Mr Saidi has outlined very clearly
38 the position of his client. A matter of this importance
39 should be dealt with by written submissions, in my
40 respectful submission, so that court time is not taken up
41 on matters that don't progress the substance of the
42 evidence.

43

44 THE COMMISSIONER: Thank you, Ms Lonergan.

45

46 Mr Cohen, that is true and we have limited time
47 available, but I propose to say this, having, ascertained

1 that the tweet was sent at the time it was sent.

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1 Court in relation to this until I have heard from you
2 either about the submissions or with the submissions.
3
4 MR COHEN: By when am I expected to do this?
5
6 THE COMMISSIONER: Well, whenever you are disposed to.
7 I will give you until the end of this week.
8
9 MR COHEN: I have to say, with respect, that will not be
10 enough time if they are to be done properly and in writing.
11 I can offer you some oral submissions now, but --
12
13 THE COMMISSIONER: I'm sorry, Mr Cohen, we don't have time
14 for that.
15
16 MR COHEN: Then I ask for some time to do this properly,
17 this week. As you must understand, Commissioner, from my
18 perspective it is all consuming. If I am to do written
19 submissions, I would need until next week to do it.
20
21 THE COMMISSIONER: Thank you. You have till then.
22 Meanwhile I hope it will only be about this one tweet and
23 there won't be any more.
24
25 MR COHEN: Well, no, with respect --
26
27 THE COMMISSIONER: No, Mr Cohen, please.
28
29 MR COHEN: Commissioner, what was raised goes well beyond
30 just my client and it does raise a question of some
31 significance. It has to be dealt with and it is
32 misleading.
33
34 THE COMMISSIONER: Mr Cohen, the tweet is inaccurate and
35 misleading.
36
37 MR COHEN: We are at cross-purposes, Commissioner. The
38 submissions cannot just be from my client, they have to be
39 from the ABC and the Newcastle Herald, surely as a
40 procedural fairness.
41
42 THE COMMISSIONER; I'm not talking about those aspects of
43 Mr Saidi's observations, but --
44
45 MS LONERGAN: Can I cut across this debate. As
46 I understand Mr Saidi's position, nothing specific was put
47 in terms of assertions by the ABC and another media outlet.

1 For that application to be made and put, in my respectful
2 submission, there needs to be some specificity, although
3 I support Mr Saidi's position in raising that matter for
4 the attention of those present and it is appropriate that
5 occur but without more specifics, I didn't see that as
6 Mr Saidi raising that as a specific application.

7
8 In the end result, Mr Saidi made a specific
9 two-pronged application - first an application to prevent
10 tweeting while the court was in session; and the second was
11 a specific request that a matter in relation to only one
12 particular individual be referred to the Crown Solicitor's
13 office for consideration. If I am incorrect in that
14 apprehension, I --

15
16 MR SAIDI: That's completely correct.

17
18 MR COHEN: I misunderstood the reference to the Herald and
19 ABC then.

20
21 THE COMMISSIONER: Yes. Thank you, Mr Cohen, I think --

22
23 MR COHEN: Are we finished now?

24
25 THE COMMISSIONER: You're not.

26
27 MR COHEN: No, I'm not, on that application --

28
29 THE COMMISSIONER: No.

30
31 MR KELL: Can I take the opportunity to substitute for
32 exhibit 6, which is the statement of Detective Inspector
33 Waddell, a version that just makes --

34
35 THE COMMISSIONER: A further redaction.

36
37 MR KELL: If that can be provided to the parties.

38
39 THE COMMISSIONER: Thank you, Mr Kell.

40
41 MR COHEN: Q. Can you tell the Commissioner during your
42 time as crime manager of Lake Macquarie from 2008 until
43 2011 what the content of your crime investigations policy
44 was concerning child sexual assault?

45 A. What do you mean what the content of my policy was?

46
47 Q. What its content was, what did it say?

1 A. We didn't have a specific policy in relation to Lake
2 Macquarie. There was a policy, a corporate policy, in
3 relation to sexual assault investigations, which is rather
4 large and I can't recite here.
5
6 Q. That was obtained where?
7
8 MR KELL: I object to this question and the line of
9 questioning - the contents of the policy of the local area
10 command won't assist the Commission's inquiry.
11
12 THE COMMISSIONER: I agree. Mr Cohen, it's not suggested
13 there was a different policy in Lake Macquarie from any
14 other local area command in New South Wales, is it?
15
16 MR COHEN: I was about to ask if there was.
17
18 Q. I take it the answer is no?
19 A. No.
20
21 Q. Did it matter if the offender was a Catholic priest?
22 A. No.
23
24 Q. You say in your statement - do you have that there
25 with you in the witness box --
26 A. Yes, I do.
27
28 Q. You say in paragraph 5 of the statement, as
29 I understand it, that you were transferred into Lake
30 Macquarie in 2008 as the crime manager?
31 A. That's correct.
32
33 Q. Was that your first significant command, if I can call
34 it that?
35 A. No, that was my second.
36
37 Q. What was your first?
38 A. Waratah Local Area Command.
39
40 Q. In what role?
41 A. Crime manager.
42
43 Q. How long were you there?
44 A. Approximately three years, two and a half, three
45 years.
46
47 Q. Strike Force Georgiana was already underway when you

1 got there?
2 A. That's correct.
3
4 Q. How long had it been on foot, so to speak?
5 A. I don't know the exact date it kicked off.
6
7 Q. Do you have any memory? Was it something that had
8 been ongoing for a while?
9 A. I can't even tell you the exact date I went to Lake
10 Macquarie. It would have been at least 2007, towards the
11 end of 2007, maybe 2008. I'm speculating. I don't know.
12 I'd have to look at the records.
13
14 Q. It may be 12 months?
15 A. Possibly.
16
17 Q. You were briefed by Detective Sergeant Faber about
18 Georgiana when you got there?
19 A. Yes.
20
21 Q. She was the source of information of the facts and
22 circumstances?
23 A. Yes.
24
25 Q. Of what had occurred?
26 A. Yes.
27
28 Q. Did anybody else provide you with information about
29 Georgiana other than her?
30 A. I spoke to other police officers at the time and
31 obviously there was an e@gl.i investigation.
32
33 Q. So we all understand an e@gl.i investigation is a
34 report, is it of --
35 A. It's a records management system for investigations.
36
37 Q. An ongoing updatable system; is that correct?
38 A. Yes.
39
40 Q. You came to understand that Georgiana had five
41 suspects or persons of interest; is that right?
42
43 MR KELL: I object.
44
45 MR SAIDI: I object.
46
47 MR COHEN: Sorry, I thought that's what the evidence was.

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MR KELL: Commissioner, it is not clear how you'll be assisted by this witness being asked questions about the details or otherwise of Strike Force Georgiana. It was limited evidence to the effect of what the landscape was when he was the crime manager in May 2008 insofar as it might have impacted on investigative staffing decisions. That is the end of the relevance of it. To go into the details of another strike force which is not Strike Force Lantle seems to be a matter that won't assist you.

MR COHEN: I don't propose to do that. In fairness to the witness, I intend to lead with two questions to get to the point. Can I have that little latitude. I don't want to canvass it.

THE COMMISSIONER: All right, Mr Cohen

MR COHEN: Q. Conceptually, what was the difference between Georgiana and complaints about McAlinden that were the subject of the letters sent to you by AL and Mr Gogarty?

MR KELL: I object to that question on the same grounds, Commissioner. A suggested distinction or comparison is not going to be of assistance.

THE COMMISSIONER: Would you just ask the question that you are aiming at, Mr Cohen?

MR COHEN: Q. Wasn't the situation this, detective inspector, that in the case of the matters that were the subject of complaints in your statement, letters from [AL] and Mr Gogarty, wasn't the material difference between that situation and what was going on in Georgiana that that situation, that is, the complaints that obtained media attention, were a hot political potato because they were obtaining media attention. Isn't that the simple difference between the two sets of facts?

A. No. They were different persons of interest. Georgiana was set up and, as I said, I was briefed when I started at Lake Macquarie on the specific persons of interest that we were looking at, and this was a specific investigation.

Q. Wasn't it possible for you to have an amended term of reference with Georgiana and adding an extra two persons of

1 interest and take it under the one roof?

2

3 MR SAIDI: I object. The term of reference, and I refer
4 to term of reference 1 - relates to Detective Chief
5 Inspector Fox and the circumstances surrounding him being
6 asked to cease investigating in his role - not in terms of
7 Georgiana; Detective Chief Inspector Fox was not in
8 Georgiana and had no involvement in Georgiana. What is the
9 relevance of all of these questions?

10

11 THE COMMISSIONER: We have had a plethora of evidence from
12 Detective Inspector Waddell as to why he couldn't take on
13 this area, Mr Cohen. Whether it was called that or
14 expanding something else or called something else, he's
15 explained why he was not disposed to take it on.

16

17 MR COHEN: Am I not entitled to test that?

18

19 THE COMMISSIONER: Would you test the evidence, please, if
20 you wish.

21

22 MR COHEN: Q. Isn't it the case that on 23 April 2010,
23 Ms McCarthy handed documents to Detective Senior Constable
24 McLeod and they are the documents you've given evidence
25 about that?

26 A. Yes, I've seen a receipt in relation to the receipt of
27 those documents on the 23rd.

28

29 Q. Isn't it the simple fact that McLeod was the reference
30 point because he happened to be involved at the time in
31 Georgiana - not for any other reason, but that he was
32 understood to be involved in Georgiana and a contact point
33 to give these documents. Isn't that so?

34

35 MR KELL: I object to that question. I'm not sure this
36 witness is in a position to give evidence as to what might
37 have been in the mind of Detective McLeod at least in terms
38 of the way the question is being put.

39

40 MR COHEN: I'm not asking about that. I'm asking about
41 the facts and circumstances these documents came to Lake
42 Macquarie because McLeod was there working in Georgiana.

43

44 THE COMMISSIONER: Mr Cohen, Ms McCarthy sent the
45 documents. Perhaps you'll wait until you have a chance to
46 ask her why she sent them to Detective Senior Constable
47 McLeod.

1
2 MR COHEN: Q. You understood from a letter annexed to
3 your statements, annexure A, from [AL], this person was
4 asking you personally: "Please do not ignore my request."
5 You remember that, don't you?
6 A. Yes, I've seen that document.
7
8 Q. You saw it at the time you received it, didn't you?
9 A. Yes.
10
11 Q. And you understood that proposition at the time you
12 received it?
13 A. Yes.
14
15 Q. You received that letter on 30 April about offences
16 committed on that person by McAlinden, didn't you?
17 A. Yes.
18
19 Q. Was there any response provided by you to that
20 correspondence about it?
21 A. No, there wasn't.
22
23 Q. If you didn't do that, why did you not do it, as a
24 simple courtesy to that person?
25 A. Because at that stage we weren't progressing the
26 investigation. The investigation had been forwarded to
27 Shaun McLeod via Joan McCarthy. They were both informed
28 that the matter was being transferred to Newcastle for
29 further investigation.
30
31 Q. But you had a personal letter from [AL]. What stopped
32 you writing a response to [AL] saying that, rather than
33 through a third party intermediary?
34 A. I suppose there was nothing that actually stopped me
35 other than the fact that it had been referred on. I hadn't
36 had any contact with that victim other than that letter,
37 and there's plenty of correspondence that comes through
38 that I don't get to reply to.
39
40 Q. In matters of equivalent seriousness and concern?
41 A. I would expect that when the matter was investigated,
42 the investigators assigned would have contact with the
43 victims.
44
45 Q. I'm sorry, I didn't hear what you said.
46 A. I would expect when the investigation was assigned,
47 the investigators would have contact with the victims.

1
2 Q. That's the formal stage when the investigation is
3 started if ever?
4 A. That's correct.
5
6 Q. Prior to that, did it occur to you it was a good idea
7 to communicate with this person who indeed likewise
8 communicate with you about these matters?
9 A. No.
10
11 Q. It doesn't form part of the charter of victims rights?
12 A. Yes, potentially it could do, yes.
13
14 Q. But there just wasn't time to do it; is that right?
15 A. That's right, there wasn't at that stage.
16
17 Q. Do you regret not being able to do it or not doing it
18 at the time?
19 A. It's probably something I could have done, yes.
20
21 Q. You agree, I take it, the allegations made in the [AL]
22 letter and the Gogarty letter, if I can call them that,
23 annexures A and B respectively, to your statement, connote
24 matters of the utmost seriousness, don't they?
25 A. Yes, they do.
26
27 Q. It still didn't strike you at the time, understanding,
28 as you did, the utmost seriousness of the matter, that it
29 would be a matter of courtesy and respond to these people
30 and say, "Your concerns are not being understood or
31 ignored"?
32
33 MR KELL: I object. The witness has been asked a couple
34 of times about this matter --
35
36 THE COMMISSIONER: He said he might have, but he didn't.
37
38 MR COHEN: Very well.
39
40 Q. Is the Commissioner entitled in those circumstances,
41 as at 3 May, to conclude that there was just no real
42 urgency being exhibited about this matter in your command,
43 as crime manager?
44 A. In which respect?
45
46 Q. Well, in any respect?
47 A. I wouldn't say there was no urgency, but it wasn't a

1 matter that I would normally attach urgency to.

2

3 Q. Even though it was a matter of serious sexual assault
4 allegations and a cover-up of those?

5 A. With any command at any time, there are numerous
6 serious matters being investigated, some which are of an
7 urgent nature. I wouldn't classify this as having any
8 urgency attached to it. Something of an urgent matter
9 would be a sexual assault that was occurring now, a
10 homicide that was occurring now, a robbery that was
11 occurring now, or very soon prior, maybe overnight. They
12 are urgent matters that require urgent attention and we
13 have many of those on a daily basis; but, no, I wouldn't
14 say this matter was of an urgent type. It was of an
15 important serious complaint but there was no urgency
16 attached to it, that's correct.

17

18 Q. There was nothing about it that exhibited to your
19 mind, to your understanding, the justification of the
20 designation that this file should be highly protected?

21 A. No.

22

23 Q. Would you ever consider this file to be justified as
24 designated highly protected?

25 A. Not at that stage, no.

26

27 Q. At any stage?

28 A. No, not in my dealings with - sensitivity, yes, but
29 not highly protected.

30

31 Q. You gave evidence earlier today about your discussions
32 about this with Detective Senior Constable McLeod. I don't
33 want to traverse those at great length, but I do wish to
34 put this proposition to you. When you had the discussion
35 with McLeod sometime in mid April 2010 I think is a fair
36 time to fix it - about the 19th roughly; is that a fair
37 comment?

38 A. It's in my diary, so I can tell you the exact date.
39 I believe it was 3 May.

40

41 Q. Did you say it was as late as 3 May?

42 A. 3 May, yes.

43

44 Q. Thank you for that. When you had that discussion with
45 Detective Senior Constable McLeod, did he not indicate to
46 you that he wished - that is his view - to mount a full
47 investigation and execute search warrants on church

1 officials such as Archbishop Wilson?
2 A. I don't recall him specifically saying that, but
3 definitely he wanted to be involved in this investigation.
4 He also wanted to be involved in the Strike Force Lozano
5 investigation, but for the reasons I stated and
6 predominantly they were welfare concerns, I wasn't going to
7 entertain that.
8
9 Q. At the same time and in the same conversation, did you
10 not inform him that the matters were too old, McAlinden was
11 dead and nothing about this warranted an investigation?
12 A. No, that's not correct at all.
13
14 Q. Did you not say directly to Detective Senior Constable
15 McLeod, "Shaun, that's not going to happen. The whole
16 thing will go to Newcastle. It is not going to be
17 investigated. I've spoken to region and it's only going to
18 be reviewed"?
19 A. No.
20
21 Q. You said that to him, didn't you?
22 A. No, I did not. In fact, my document on 3 May, which
23 I sent to Newcastle, was sent there for the purpose of
24 further investigation.
25
26 Q. So that document was completed that same day, was it?
27 A. It was --
28
29 Q. What time - I'm sorry; I beg your pardon.
30 A. My diary entry and the document itself both reflect it
31 was 3 May, yes.
32
33 Q. What time of the day was the diary entry?
34 A. It's in chronological order. I record things in my
35 diary as I go down. I don't have any time.
36
37 Q. It's redacted, but in fairness to you and so that the
38 Commissioner understands, if there are entries that
39 disclose apparently a time of day, is that an accurate
40 representation of the time, or is it just that that is a
41 spot you found?
42 A. If there's a time recorded that's the time the
43 conversation took place.
44
45 Q. So you had the discussion on 3 May in the period from
46 3 to 4pm?
47 A. No.

1
2 Q. No? I'm sorry.
3 A. There's no time recorded next to the conversation
4 I had with Shaun McLeod.
5
6 Q. We're at cross-purposes. Go to page 6 of exhibit 7?
7 A. That's where I am.
8
9 Q. The question I put before the one I just had you
10 answer was if you look at the page - I'm sorry, I apologise
11 if you misunderstood my question.
12 A. I understood the question.
13
14 Q. So 3 to 4pm, is that when it occurred?
15 A. No, what I said was if there's a time written next to
16 it, that is the time the conversation took place.
17 I haven't written a time there. It's just - I go down the
18 diary lines as I go.
19
20 Q. We're at cross-purposes. Your earlier answer to my
21 question is you don't say that these times are roughly the
22 times of day when these occurred?
23 A. No, I didn't say that.
24
25 Q. I'm sorry, I beg your pardon, I thought you had. So
26 it's just as the diary fills up and as you run out of space
27 you move down the page. Given that there is no attribution
28 of a time there, what time do you say it occurred?
29 A. I don't know what time it was.
30
31 Q. Looking at the page, I can see, for example - this
32 hasn't been redacted but nothing turns on it and there's
33 certainly no secret to it - there is a reference to 8.30 -
34 presumably 8.30am on that page?
35 A. Yes. Obviously I had a conversation with someone at
36 that time in relation to something at 8.30 which I thought
37 was relevant to record the time.
38
39 Q. Is that close to the beginning of your working day, or
40 does it vary?
41 A. 8.30?
42
43 Q. Yes.
44 A. No, I'd normally start - I don't know what time I was
45 starting on that day, but I was starting - when I was at
46 Lake Macquarie, I would start anywhere between 7 and 8 on
47 the day, normally. It could be earlier depending on what

1 was happening.
2
3 Q. There is a reference in the margin below that, it's
4 also not redacted. It looks to me - I'd be grateful if you
5 could confirm - 10.30 or 10 something?
6 A. It looks like it, yes.
7
8 Q. What do you think - 10.30?
9 A. 10 something.
10
11 Q. At least 10 o'clock?
12 A. Yes.
13
14 Q. Having regard to the proximity of the reference to 10,
15 and this entry about the conversation with Detective Senior
16 Constable McLeod, does that help you with the time of day?
17 A. No. I don't know what time it was. I'd be guessing.
18 It was sometime, by the looks of that entry, between 10.30
19 and when I left in the afternoon, which could have been any
20 time from 4 - 3 to 5, 6, depending on what was happening.
21
22 Q. You say that you prepared the memorandum that was sent
23 off on 3 May, which is annexure C to your statement?
24 A. That's correct.
25
26 Q. How much time do you ordinarily need to prepare a
27 memorandum?
28 A. That was only a couple of pages - maybe an hour or
29 two. I'd already reviewed the material.
30
31 Q. How long was the discussion with Detective Senior
32 Constable McLeod?
33 A. I don't know how long.
34
35 Q. Doing the best you can, have you got any memory of it?
36 A. No.
37
38 Q. If you've got no memory of it, can you be as certain
39 as you were earlier about what was said to Constable
40 McLeod?
41 A. Yes, I don't recall how long the conversation went
42 for, though.
43
44 Q. You said a moment ago you had no memory of it. Is
45 that just the time or the conversation?
46 A. I have no memory of how long we spoke for.
47

1 Q. Do you have any memory of the conversation?
2 A. Yes, I do.
3
4 Q. I see. So you just disagree with the propositions
5 I put to you?
6 A. I don't recall how long the conversation went for.
7
8 Q. No, no, we are at cross-purposes. You disagree with
9 the propositions I put to you about what Detective Senior
10 Constable McLeod said to you and what you said in reply?
11 A. Some of them, yes.
12
13 Q. Some of them.
14 A. (Witness nods head).
15
16 MR COHEN: I apologise, Commissioner. It's slightly
17 difficult to arrange my papers in this way. Forgive me.
18 If there are a few pauses, it's trying to scan the
19 material. I'm grateful for the assistance from my learned
20 friend Mr Kell.
21
22 Q. Paragraph 8 of your statement, do you have it there?
23 A. I do, yes.
24
25 Q. In the bundle it is page 438 behind tab 10, but it is
26 now a part of exhibit 6. Have you got that?
27 A. Yes, "Annexed to the statement marked with letter C",
28 is the start of the paragraph.
29
30 Q. You tell the Commissioner you wanted the complaint to
31 go to Newcastle; is that right?
32 A. That's right.
33
34 Q. You did that, did you not, for two reasons, or more?
35 A. I'm sorry?
36
37 Q. You did that for two reasons, or more?
38 A. The predominant reason was that the area where the
39 Newcastle-Maitland diocese offices were based and that's
40 what the complaint related to.
41
42 Q. You said that a couple of times in your evidence, but
43 does that really withstand reasonable scrutiny, detective
44 inspector?
45 A. Generally that's where the offences are investigated,
46 where they occur.
47

1 Q. You say that's the primary reason - a dominant factor,
2 is that a fair way to put it?

3 A. That's the first factor.
4

5 Q. But is it the dominant factor?

6 A. Yes.
7

8 Q. Isn't it the case in this matter, the subject of the
9 complaints by [AL] and Mr Gogarty, that at the time of the
10 offences, the diocesan office was not in Newcastle but was
11 in Maitland; isn't that right?
12

13 MR SAIDI: I object to the question. When reference is
14 made to the offences, I think it should be made clear as to
15 which offences; that is, whether it's the primary offence
16 and what is the concealed offence.
17

18 MR COHEN: I'm happy to do that. Both.
19

20 Q. Isn't this 1993, detective inspector?
21

22 MR KELL: I object, Commissioner. I think the question is
23 probably unfair and it raises legal issues. If there is an
24 alleged concealment that's presumably a continuing
25 offence - if there is a change of geographical location of
26 the persons who are suspected of concealing, then it
27 changes as well and the location of the offence changes.
28

29 THE COMMISSIONER: It also raises this witness's knowledge
30 of where the diocese was based at various times in history.
31 He may not know.
32

33 MR COHEN: It certainly does, Commissioner. I accept that
34 unreservedly. What I'm trying to indicate is the subtlety
35 of the factors I'm trying to put to the witness is not
36 quite as simple as he would have you understand. I'm
37 trying to test that.
38

39 THE COMMISSIONER: All right. I'm sure Detective
40 Inspector Waddell is capable of telling you his state of
41 knowledge of the locations.
42

43 MR COHEN: Let me test it this way.
44

45 Q. If I were to say to you that the diocesan office was
46 in Maitland until late 1995, early 1996 - if you assume
47 that - at the time you were doing this review of the facts

1 and circumstances that occurred in your 3 May letter, that
2 presumably would change your attitude about whether or not
3 it should or should not go to Newcastle, wouldn't it?
4 A. No, because my understanding is a concealed offence
5 went on for some time and my only consideration was the
6 fact that it occurred or the offices were in Newcastle and
7 that was the appropriate place for it to go to.
8
9 Q. You would assume in that line of reasoning that the
10 offence had occurred in multiple locations; is that right?
11 A. Potentially, yes.
12
13 Q. And that could mean that you could invoke in
14 investigating that situation the good offices of the
15 unattached detectives in the regional force that were
16 located at Newcastle; is that right?
17 A. I'm sorry?
18
19 Q. It would be possible for you to use those unattached
20 detectives housed at Newcastle but going anywhere inside
21 the region for investigation?
22 A. There isn't any unattached --
23
24 Q. Is that not so? There's not a floating group of
25 detectives who are available to go into any region?
26 A. No.
27
28 Q. You will have in the witness box with you, I hope, a
29 schedule of synonyms that are used to itemise - you should
30 have in the witness box a schedule of initials that provide
31 anonymised two-letter references?
32 A. Yes, I do.
33
34 Q. I'm sorry, Commissioner, I've been given another
35 schedule that's entirely different to what I'm familiar
36 with. Didn't the offences occur to a person identified as
37 [AE] at Raymond Terrace when they occurred?
38 A. Sorry, what offences?
39
40 Q. Number 31 on the list, is that your difficulty?
41 You've got the reference?
42 A. Yes, I don't know that person.
43
44 Q. We'll do it this way.
45 A. The offences that we we're looking at with this were
46 the conceal offences, not specific sexual assault offences.
47

1 Q. Didn't the Catholic priest - one of the two who are
2 the subject of this inquiry - McAlinden, spend a great bulk
3 of his time in Merriwa in the Hunter Valley?

4 A. I believe so.

5

6 MR KELL: Commissioner, I object, or press the objection
7 again, that the alleged offences relate to concealment.
8 The location or otherwise will --

9

10 THE COMMISSIONER: We all know that these two priests are
11 dead and can't be charged in relation to these matters. It
12 is the concealment, isn't it, that is at the centre of this
13 strike force.

14

15 MR COHEN: Q. Isn't it the case that the victims are not
16 all found in Newcastle and not all the concealment occurred
17 in Newcastle, the long and the short of it?

18 A. That's correct.

19

20 Q. That being so, there was no essential reason for
21 Newcastle to be taken as the place for the investigation on
22 the arbitrary footing that the diocesan office is now in
23 Newcastle.

24

25 (Pause in proceedings while microphones
26 rearranged for Mr Cohen)

27

28 MR COHEN: Q. I'm sorry for the inconvenience to you,
29 detective inspector, but technology is not what it might be
30 sometimes. Not all concealment occurred in Newcastle, did
31 it?

32 A. Possibly not.

33

34 Q. But on these facts and circumstances, as you
35 understood it from the [AL] letter and from the Gogarty
36 letter, it was likely, wasn't it, that that was the case -
37 not just possibly not - but that the concealment occurred
38 in many places beyond just Newcastle, isn't it?

39 A. Yes.

40

41 MR KELL: I object to that question. That needs to be
42 specified as to in what respects. It's a global sort of
43 assertion - all concealment may not be in Newcastle and so
44 on. I think it needs to be broken down a bit to be a fair
45 question to the witness.

46

47 MR COHEN: Can I explain my position so you can rule on

1 this, Commissioner.

2

3 It's being asserted in his opinion that it was just
4 Newcastle. That seems to be the gravamen of his evidence -
5 at least in oral evidence it fell from him this morning led
6 by senior counsel assisting.

7

8 THE COMMISSIONER: No, that's not the evidence. The
9 evidence was that Detective Inspector Waddell considered
10 that the appropriate local area command was Newcastle
11 because that is where the Maitland-Newcastle diocese
12 offices was.

13

14 MR COHEN: Q. And the assumption that must overlie it is
15 that is where it occurs and that is what I am putting to
16 you.

17 A. No, that wasn't my assumption.

18

19 Q. If it wasn't your assumption, then you must have been
20 in a position to consider beyond Newcastle and the facts
21 and circumstances beyond Newcastle; is that so?

22 A. The investigators are attached to individual local
23 area commands. The investigation could only go to one
24 place.

25

26 Q. Surely the investigation could have a multi-faceted
27 location?

28 A. It could, but it would be housed and managed from one
29 local area command. Strike Force Georgiana investigated
30 complaints and matters that didn't just happen with the
31 Lake Macquarie Local Area Command. We had detectives from
32 other area commands working within Lake Macquarie.

33

34 Q. Are you saying it was of such complexity and
35 difficulty that it had to go to a central beyond just
36 Newcastle like the State Crime Command?

37 A. What needed to.

38

39 Q. This investigation?

40 A. No, that's not what I said.

41

42 Q. Then why could there not be a multi-faceted approach
43 to this investigation across a number of commands?

44 A. If it was required, I'm sure that would have been
45 addressed by the Newcastle command.

46

47 Q. But didn't these facts suggest themselves very

1 strongly that that was what was required at the time you
2 were considering it and forming a view?

3 A. No.

4
5 Q. Why was that?

6 A. Because, as has been stated, the diocesan offices for
7 the Maitland-Newcastle diocese was at Newcastle so that's
8 where I forwarded the complaints on.

9
10 Q. So it is just an assumption that's driving your logic
11 now, one that you didn't test in any way; is that right?

12 A. I didn't conduct the investigation. I only looked at
13 the original assessment to see whether it needed to be
14 further investigated and then I sent it - referred it to
15 Newcastle for further investigation to take place. That
16 was the appropriate place I thought for it to be
17 investigated for a number of factors, one being the
18 location.

19
20 Q. My question to you which I'd ask you to consider and
21 respond to is: you just made a working assumption about
22 that without having a reasonable foundation for that
23 assumption?

24
25 MR SAIDI: I object. There was no assumption made in his
26 evidence and it is wrong to put that to the witness. His
27 evidence is clear that he sent it to Newcastle: (a)
28 because of a resourcing issue; (b) in relation to staffing
29 issues; (c) because Newcastle was the appropriate place,
30 having regard to where these matters occurred. There are
31 no issues of assumption behind that - it is straight fact.

32
33 THE COMMISSIONER: Yes, I'm with you, Mr Saidi. There
34 weren't any assumptions, Mr Cohen.

35
36 MR COHEN: If the Commission pleases.

37
38 THE WITNESS: There is a document attached to my
39 statement.

40
41 MR COHEN: Q. You don't need to go on. You sent your
42 memorandum to Chief Inspector Tayler?

43 A. Yes.

44
45 Q. And the long and the short of it was for you
46 petitioning for the file to go to Newcastle?

47 A. For the matter to be investigated by Newcastle, yes.

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Q. But that didn't happen, did it, because it went ultimately, in July that year, to the regional office for review; isn't that right?

A. I believe so. I don't have the information in relation to that specifically.

Q. You are aware, aren't you, that on 12 July Detective Inspector Townsend, the operations manager, produced a report about just where this matter should go?

A. I've been made aware of it, yes, but as far as dates and specifics, I can't give you any detail.

Q. You knew enough that it was about to come back to you for you to write the email that you did to Superintendent Rae, copied to Townsend, didn't you?

A. Yes. I wrote that email after making inquiries with the region office, as I gave in my evidence, and those inquiries by myself were made because of a phone call from the Newcastle area.

Q. In the addendum to that memorandum which is annexure D to your statement at page 447 of the bundle - I'm sorry I don't know which number it is in your statement by number, but if you have it, annexure D; do you have that?

A. Yes.

Q. Didn't Inspector Townsend say - you record the view - that the original decision to send it to Lake Macquarie was sound?

A. Yes, he did.

Q. So he took a contradictory view to you, didn't he?

A. He didn't have possession probably of some of the information in relation to our command.

Q. So are you saying his decision was unsound, are you?

A. No, I'm not saying that at all.

Q. He just took a different view to you, didn't he?

A. That's right.

Q. What changed his mind wasn't the compelling force of the logic but the internal complaint that you made, isn't that right?

MR KELL: I object to that. This witness is not able to

1 give evidence as to what did or didn't alter Inspector
2 Townsend's mind.

3

4 THE COMMISSIONER: That has to be right, Mr Cohen. Could
5 you ask your next question, please.

6

7 MR COHEN: Excuse me, Commissioner, I'm just checking my
8 working notes for the day. I don't have a transcript, so
9 this process is a little bit slower, I apologise.

10

11 Q. This morning you indicated that the overall management
12 role needed a helicopter view and then you went on to give
13 some evidence about the circumstances of the involvement of
14 the crime manager in resourcing. Can I put it to you that
15 if not the most important resource for the crime manager,
16 is the years of experience of his or her detectives in
17 investigating matters day in, day out; is that a fair
18 question for you to answer?

19 A. I'd say the most important resources are the people,
20 yes.

21

22 Q. And those people are important not just because they
23 are good people but because they have lots of experience of
24 investigating criminal events and solving them; is that
25 right?

26 A. Yes. That's true to some extent, yes.

27

28 Q. Would you prefer a detective of whatever rank who had
29 35 years of experience over somebody who had much less?

30 A. No.

31

32 THE COMMISSIONER: Mr Cohen, it's like barristers, isn't
33 it. Some might be good after just a few years and some
34 might be terrible after 35 years?

35

36 MR COHEN: Yes, indeed. I tell myself that all the time.
37 I take your point.

38

39 THE COMMISSIONER: Thank you, Mr Cohen.

40

41 MR COHEN: Q. You were taken to the bundle of documents
42 that accompanied the material provided to you under an
43 email from Detective Senior Constable McLeod --

44 A. Yes.

45

46 Q. -- from Ms McCarthy?

47 A. Yes.

1
2 Q. You went through that bundle and while you weren't
3 completely sure, you weren't in too much doubt that that
4 was the material, would that be fair?
5 A. I believe that to be so, yes.
6
7 Q. Your evidence was that you believed the documents were
8 them. Assuming they are the documents you accept, one,
9 these are evidence of serious crime?
10 A. Yes.
11
12 Q. And, two, did that lead to you recording these
13 materials and the events and facts and circumstances at a
14 so-called COPS event or a COPS case or none of those?
15 A. No, no, the documents were forwarded along with my
16 memorandum to Newcastle, so that was the documentation of
17 the matter at that stage.
18
19 Q. This is the 3 May letter; is that it?
20 A. Yes.
21
22 Q. Did that letter become such a COPS event or a COPS
23 case or anything systemically?
24 A. No, I didn't create one, no.
25
26 Q. Why didn't you do that?
27 A. I don't normally create COPS events. It's normally
28 the investigators that will commit to the system.
29
30 Q. Isn't there some risk if you don't do that as a point
31 of carriage in the sense of a chain of custody, if I can
32 use that term, perhaps slightly inaccurately? Assume you
33 need to be able to show from point to point to point where
34 things are, where they have been, who had them, who has got
35 them, is there not some need with bundles of material like
36 this to record them systemically so that someone can say,
37 "Hey, where that has got to", if they have to?
38 A. There are systems that do that, yes.
39
40 Q. How would you do that?
41 A. That would normally go on the TRIM system.
42
43 Q. The TRIM system. And you did not do that with this
44 bundle and this matter?
45 A. I'm not sure if it was placed on TRIM or not. Often
46 times things from Charlestown didn't get TRIME-ed because
47 we didn't always have people who operated the TRIM system

1 there. Sometimes we forwarded them on without them being
2 TRIM-ed, that's correct.
3
4 Q. Do you think that's the case with these documents?
5 A. I don't know. I would have to look at the original
6 documents.
7
8 Q. Is there a risk management problem that you see
9 arising there?
10
11 MR KELL: I object.
12
13 MR SAIDI: I object to the general line of questioning,
14 Commissioner.
15
16 THE COMMISSIONER: Yes, it's not necessary, thank you,
17 Mr Cohen.
18
19 MR COHEN: Q. Detective inspector, can I put a direct
20 question to you. You didn't seem to have much appetite for
21 taking this file as at May 2010. I don't think I'm
22 overstating that position, am I? You weren't really
23 interested in taking it and running with it?
24 A. Investigating it at Lake Macquarie?
25
26 Q. Yes.
27 A. No.
28
29 Q. You didn't share the passion or the interest or the
30 commitment of Detective Senior Constable McLeod?
31
32 THE COMMISSIONER: I reject the question about "passion",
33 Mr Cohen.
34
35 MR COHEN: I beg your pardon.
36
37 Q. You didn't share the same view as Detective Senior
38 Constable McLeod in the way he expressed it to you?
39 A. In that Detective Senior Constable McLeod wanted to
40 investigate it?
41
42 Q. Yes.
43 A. He did want to investigate it. I've said that before.
44
45 Q. I am sorry, I missed that.
46 A. I have said before he did want to be involved in the
47 investigation, as he wanted to be involved in other

1 investigations.

2

3 Q. You didn't share his view?

4 A. Of him being involved in it? No.

5

6 Q. No, it being worthy of investigation by Lake
7 Macquarie?

8 A. Not that it wasn't worthy, just that for the facts and
9 reasons I've already given I believe that, one, we weren't
10 in a position to give it appropriate attention at the time
11 and I believe it was more appropriate that it be
12 investigated by Newcastle.

13

14 Q. You understood at the time, did you not, that
15 Newcastle were having their own problems similar to the
16 type you characterised at Lake Macquarie?

17 A. They may have.

18

19 Q. You were aware of that, weren't you, from your daily
20 discussions with Detective Chief Inspector Tayler?

21 A. No.

22

23 MR SAIDI: I object. What this witness believed or may or
24 may not have believed is not relevant. It's a region
25 command decision, not his.

26

27 THE COMMISSIONER: I don't allow this, Mr Cohen. This
28 witness wouldn't have the knowledge of what was going on in
29 Newcastle to that extent, surely.

30

31 MR COHEN: I was testing it. It's a matter for you.

32

33 THE COMMISSIONER: He's given some evidence about the
34 respective resources in the locations and the reason why
35 his local area command couldn't do justice to an
36 investigation of that scope at the time. Is there anything
37 more on that?

38

39 MR COHEN: No.

40

41 THE COMMISSIONER: Thank you.

42

43 Q. Can I ask you to look, and probably your statement is
44 the most sensible place - if you start at page 441. Is it
45 some time since you've had a chance to read those
46 documents, or are you reasonably au fait with their
47 contents, that is to say, annexure A and annexure B? Do

1 you want to reread them to be sure?
2 A. Do you want me to reread them?
3
4 Q. I am asking you in fairness: are you sufficiently
5 across their contents to be able to answer questions about
6 them?
7 A. No, I would probably have to read them again.
8
9 Q. Please. I'm sorry Commissioner, but that's the only
10 way to deal with it.
11 A. Yes.
12
13 Q. In your memorandum of 3 May - this is at page 2 of
14 that memorandum which is annexure C - in the second
15 paragraph from the top of page 2 commencing, "The current
16 bishop", you go on to identify everything that, in your
17 view, the current bishop has done, and this is as at May
18 2010.
19 A. Yes.
20
21 Q. But there's no identification of former events. Is
22 there any reason for that, that is, before the current
23 bishop was appointed?
24 A. Because I didn't have any dealings with those prior
25 events. My involvement purely was in relation to the
26 current events.
27
28 Q. Did you take steps to acquaint yourself with those
29 prior events before you came to this view - your view - the
30 current position was "reasonable"?
31 A. No.
32
33 Q. Should you have done it?
34 A. I don't think so. It was an assessment of whether
35 there was sufficient evidence there to warrant
36 investigation and I forwarded that to Newcastle. The
37 consideration in that second paragraph of the second
38 page of my document is in relation to dealings that we had
39 with Bishop Malone to make the investigators aware so that,
40 when they investigated the matter, they knew how to - they
41 may be able to address that aspect of the investigation.
42
43 Q. But what aspect? How can it be relevant what he did
44 or did not do in 2010 having regard to the fact that you
45 were charged, on the face of the allegations by [AL] and by
46 Mr Gogarty, about these prior events when he wasn't the
47 bishop? How does it matter what Bishop Malone thought

1 about those events that were being considered?

2 A. It may impact - it may be very useful for
3 investigators.

4

5 Q. I'm sorry, detective inspector, isn't that just a non
6 sequitur. How could it matter to them what the current
7 bishop thought?

8 A. How they went about the investigation, how they
9 approached people, their attitude, it may be very relevant.

10

11 Q. Couldn't that be read as a heads up to other
12 investigators, this is a real political hot potato, tread
13 carefully because the church might be really worried about
14 what you do?

15

16 MR SAIDI: Commissioner, I thought you disallowed a
17 question along those lines earlier today.

18

19 MR COHEN: I don't recall that but?

20

21 THE COMMISSIONER: Mr Cohen, among other things, Chief
22 Inspector Waddell passes on the fact that Bishop Malone has
23 made a public comment that he could have handled matters of
24 sexual assault better.

25

26 MR COHEN: I accept that.

27

28 THE COMMISSIONER: That may be a very relevant area for
29 investigators to commence with the bishop.

30

31 MR COHEN: It's a question of concealment, I don't
32 understand.

33

34 THE COMMISSIONER: That could be an area of investigation
35 for them to pursue.

36

37 MR COHEN: Very well.

38

39 THE COMMISSIONER: To find out from what the bishop what
40 he meant, what could have been handled better, who didn't
41 do it right, what he thought should have happened.

42

43 MR COHEN: Let me explore that.

44

45 Q. You heard what the Commissioner said but this is just
46 relying on public comments by the bishop. You didn't go
47 and have a personal chat with him over a cup of tea, did

1 you?
2 A. Well, I have --
3
4 Q. At this time in May 2010?
5 A. I can't remember exactly when it was but certainly
6 I had a chat with him with Detective Sergeant Faber.
7
8 Q. When do you think it was that you had that?
9 A. I can't remember. I'd have to go back to my diaries
10 and have a look.
11
12 Q. Doing the best you can, have you got any memory of it?
13 A. No, no.
14
15 Q. Is it likely to have been May 2010?
16 A. No, I don't believe it was in May. I don't know when
17 it was.
18
19 Q. Do you think it was after this time, or before it?
20 A. I don't know. I'd have to go back to the records and
21 have a look, but I had spoken with him, yes.
22
23 Q. I'm sorry, I missed that.
24 A. I'd have to go back to the records to check, but
25 I have spoken to him, yes.
26
27 Q. What did he say to you that was relevant to concealing
28 serious --
29 A. Nothing. It wasn't that - we weren't discussing
30 specific issues in relation to the investigation.
31
32 Q. Did you make a note of it?
33 A. Yes. It would be recorded in the diary.
34
35 Q. Whenever that was?
36 A. Correct.
37
38 Q. You would have to go and look for it?
39 A. Yes.
40
41 MR COHEN: If the Commission pleases.
42
43 **<EXAMINATION BY MR SAIDI:**
44
45 MR SAIDI: Q. You referred in your evidence, going back
46 to your diary, that you had two telephone calls in August,
47 one with Ms McCarthy and one with Detective Chief Inspector

1 Fox. Do you recall giving that evidence?

2 A. Yes.

3

4 Q. Those conversations, according to your diary, occurred
5 just under two weeks of each other?

6 A. Yes.

7

8 Q. At the time did Peter Fox, to your knowledge, have any
9 involvement whatsoever in any investigation relating to the
10 Catholic Church?

11

12 MR COHEN: I object. This doesn't arise.

13

14 MR SAIDI: It doesn't have to arise. I'm cross-examining.

15

16 THE COMMISSIONER: I'll allow it.

17

18 THE WITNESS: Not that I'm aware of.

19

20 MR SAIDI: Q. In terms of the apparent reasons for the
21 call made by Detective Chief Inspector Fox to you, was
22 there any apparent reason as to why such a call was to be
23 made or was made to you?

24 A. I don't recall anything other than the record in my
25 diary, which was in relation to this matter and whether it
26 had been forwarded back to us for investigation - whether
27 there was any other reason for the call, I don't recall.

28

29 Q. From your knowledge of the matters that were the
30 subject of discussion, was there any reason that you could
31 ascertain from either what he told you or from what you
32 knew from elsewhere as to why he should be calling you
33 about the matter?

34 A. Only the fact that it had come to us originally and
35 obviously there was some sort of report out there that had
36 come back to us for further investigation.

37

38 Q. But in terms of his involving himself in the matter,
39 was there any apparent reason that you knew of as to why he
40 should be involving himself?

41 A. No.

42

43 MR SAIDI: Thank you.

44

45 <EXAMINATION BY MR McILWAINE:

46

47 MR McILWAINE: Q. At any time during your involvement

1 with the matters we've been discussing today, did any
2 senior officer of police approach you to do some favours
3 for the Catholic Church in this matter?

4 A. No.

5

6 Q. And you conducted your limited role in this matter in
7 the normal way in accordance with your duties; is that
8 correct?

9 A. Yes, I did.

10

11 MR McILWAIN: Thank you, Commissioner.

12 THE COMMISSIONER: Thank you, Mr McIlwaine. Mr Kell?

13

14 MR KELL: I have no questions in re-examination. Could
15 Detective Inspector Waddell be excused.

16

17 THE COMMISSIONER: Thank you for your evidence, Detective
18 Inspector Waddell. You are excused.

19

20 <THE WITNESS WITHDREW

21

22 MS LONERGAN: Mr Hunt has asked whether we could have a
23 five-minute adjournment so we can stretch our legs before
24 we start the next witness, who I hope will be able to be
25 completed in a short time.

26

27 THE COMMISSIONER: Yes, I'll grant that adjournment to
28 Mr Hunt.

29

30 **SHORT ADJOURNMENT**

31

32 MS LONERGAN: Commissioner, I call inspector David Michael
33 Matthews.

34

35 <DAVID MICHAEL MATTHEWS, sworn: [3.30pm]

36

37 <EXAMINATION BY MS LONERGAN:

38

39 MS LONERGAN: Q. Your full name is David Michael
40 Matthews?

41 A. That's correct.

42

43 Q. You are an inspector of police currently at Port
44 Stephens Local Area Command?

45 A. Correct.

46

47 Q. You've been an inspector at Port Stephens Local Area

1 Command since 2008?

2 A. I have.

3

4 Q. And in November 2010 you had a period of acting
5 commander at Port Stephens Local Area Command?

6 A. That's correct.

7

8 MR SAIDI: Commissioner, could it be noted this witness
9 also wishes section 23 to apply to him.

10

11 THE COMMISSIONER: Thank you, Mr Saidi, that is noted.

12

13 MS LONERGAN: Q. And you prepared a statement with the
14 assistance of your lawyers dated 1 May 2013. I'll just
15 show you a copy of it and I have a copy for the
16 Commissioner. Is that statement true and correct?

17 A. It is.

18

19 MS LONERGAN: I tender that statement, Commissioner.

20

21 THE COMMISSIONER: The statement of Inspector Matthews
22 will be admitted and marked exhibit 8.

23

24 **EXHIBIT #8 STATEMENT OF INSPECTOR DAVID MATTHEWS**

25

26 MS LONERGAN: Q. Prior to November 2010, inspector, had
27 you had any period as acting commander at the Port Stephens
28 Local Area Command, or is that the only one?

29 A. I think it was the only period of relieving that I've
30 had. Without checking my personal records I couldn't tell
31 you accurately.

32

33 Q. Having worked at the Port Stephens Local Area Command
34 in the role of inspector, did you have a reasonable idea of
35 the resources available to it?

36 A. Yes, I did.

37

38 Q. That included the resources available to it as
39 at November 2010 specifically?

40 A. Yes.

41

42 Q. In November 2010, in paragraph 7, you refer to this
43 matter, you were provided with a document by Detective
44 Chief Inspector Peter Fox?

45 A. That's correct.

46

47 Q. Prior to being provided with that document, have you

1 had any discussions with Detective Chief Inspector Fox
2 about the matters raised in that document?

3 A. No, I hadn't.

4

5 Q. So the document came to you with no particular warning
6 or prior discussion?

7 A. That's correct.

8

9 Q. Did you know whether Detective Chief Inspector Fox was
10 carrying out any investigations into alleged concealing of
11 child sexual assault offences on the part of Catholic
12 priests?

13 A. No, I didn't.

14

15 Q. Did you read the document yourself?

16 A. I did.

17

18 Q. Was it presented to you by Detective Chief Inspector
19 Fox with any particular oral information, or was it just
20 left on your desk or what happened?

21 A. He handed it to me personally. I was seated in the
22 commander's office and he walked in and handed it to me.

23

24 Q. With no discussion of what was in it?

25 A. He just asked me to read it and then consider its
26 contents.

27

28 Q. You note in paragraph 7 that you have annotated on the
29 last page of the document, which is page 329 down the
30 bottom of the copy annexed to your statement, the
31 following:

32

33 *The recommendations of Detective Chief*
34 *Inspector Fox are supported. Given the*
35 *nature of these allegations, these matters*
36 *appear beyond the scope of a [local area*
37 *investigation] and could be more*
38 *appropriately dealt with by a taskforce.*
39 *Referred to region.*

40

41 I'm going to ask you a couple of questions about what you
42 are referring to there. First of all, given the nature of
43 these allegations, what did you mean by that in the context
44 of your comment?

45 A. It appeared to be a complex investigation and
46 historical investigation, which, in my opinion, would have
47 taken a bit of work on the part of investigators. We just

1 didn't have the investigators or the assets available to
2 the Port Stephens Local Area Command at that time to do
3 that investigation.
4

5 Q. So beyond the scope of a local area command
6 investigation, was that part of that consideration in
7 relation to the matters you've just raised?

8 A. Specifically applicable to the Port Stephens Local
9 Area Command. We were stretched and we already had a
10 couple of investigations running which were quite complex.
11 We could not take on another investigation.
12

13 Q. When you say "referred to region", what was the
14 expected process as to what would happen at region in
15 relation to the referral?

16 A. I would expect that it would go through to the region
17 operations manager for consideration, but he is aware of
18 what is occurring across the adjoining LACs, and the
19 region, in relation to operations and task forces and he
20 would be in a good position to determine where to send it
21 to.
22

23 Q. Do you recall having any particular discussions with
24 the operations manager of Northern Region, who was at the
25 time Inspector Townsend, about this particular report?

26 A. I didn't discuss the report with Inspector Townsend.
27 It was TRIM-ed and it was forwarded on to region.
28

29 Q. That's the usual procedure in relation to these sorts
30 of matters being raised for consideration of allocation of
31 resources to investigate?

32 A. Absolutely.
33

34 Q. In paragraph 10 of your statement, you mention that
35 you advised Detective Chief Inspector Fox that you
36 recommended the matter be referred to region because that
37 was your belief that was the more appropriate course of
38 action. Was there an alternative course that you could
39 have adopted in relation to managing that particular
40 report?

41 A. As in - sorry, could you rephrase the question?
42

43 Q. In paragraph 10 of your statement, you say that you
44 advised Detective Chief Inspector Fox that you had referred
45 the matter to region, and that's the way you approached
46 your report that was provided to you, and you say that that
47 was because that was a more appropriate course of action.

1 Was there an alternative course of action you could have
2 adopted in relation to the report, or was that not
3 realistic - there was no realistic alternative?

4 A. There was no realistic alternative. We could not
5 conduct that investigation.
6

7 Q. In paragraph 11 you make particular observations
8 regarding why you made the recommendation in the terms
9 there, and one of those matters is that, to your mind, at
10 least, the local area command at Port Stephens was severely
11 stretched in terms of resources available to it and you've
12 outlined that was your belief as to the position. Did you
13 tell Detective Chief Inspector Fox that that was your
14 position as to why it would not be appropriate for the
15 matter to be dealt with at Port Stephens?

16 A. I did. We had a discussion.
17

18 Q. To your recollection, did Detective Chief Inspector
19 Fox say anything in reply to you about that particular
20 issue of resources?

21 A. I don't recall what his response was, but I do know
22 that we did have a conversation about it.
23

24 Q. The two separate strike forces you refer to in
25 paragraph 11 that were running at the local area command at
26 the time, may I ask, were they related to church
27 paedophilia or unconnected?

28 A. Unconnected.
29

30 Q. In paragraph 12 you mention that after you signed off
31 on the report, you recall discussing the matter with the
32 Superintendent Charles Haggett, who you had filled in for
33 while he was away. Do you recall any particular
34 discussions with Superintendent Haggett about the content
35 of the report?

36 A. Yes, we had a discussion, and I believe it occurred
37 when we did our handover, after he returned on the Monday,
38 and he advised me that, prior to going on leave, he'd
39 already discussed these matters with Detective Chief
40 Inspector Fox.
41

42 Q. Did you show Superintendent Haggett a copy of the
43 report of 25 November 2010?

44 A. I don't believe I kept a copy. I believe I just
45 forwarded the original --
46

47 Q. Was that the usual procedure in relation to referring

1 matters up the line in that fashion?
2 A. It is, yes.
3
4 Q. Did you make any particular notes of any discussion
5 you had with Detective Chief Inspector Fox regarding the
6 25 November report?
7 A. I didn't.
8
9 Q. Did you make any notes of any discussion you had with
10 Superintendent Haggett about that report?
11 A. I didn't.
12
13 Q. Is that the normal course in relation to your acting
14 role, that you wouldn't necessarily notate those particular
15 matters as they had been formalised in another fashion?
16 A. That's correct, and I did a formal handover with
17 Commander Haggett and it was written. I don't have a copy
18 of the written handover, which is my normal practice.
19
20 Q. Inspector, do you know a former police officer Quinn,
21 first name Justin?
22 A. I do know former Detective Senior Sergeant Justin
23 Quinn
24
25 Q. What were the circumstances in which you knew Justin
26 Quinn?
27 A. Justin Quinn was the head of prosecuting when I was a
28 duty officer at Newcastle police station prior to me moving
29 to Port Stephens.
30
31 Q. Did you have any particular knowledge of Justin
32 Quinn's background in terms of his investigation
33 experience?
34 A. I did. When Justin first came to the LAC, or it may
35 have been when I first went to the LAC, I'm not sure which
36 way it was --
37
38 Q. This is Port Stephens LAC?
39 A. Newcastle, yes. We had a conversation and, as I do,
40 I asked him what his background was and he told me that his
41 background was in I believe it was child sexual assault and
42 that he was from - came from northern New South Wales, as
43 in an LAC in northern New South Wales somewhere. I don't
44 recall which one.
45
46 Q. Did he outline for you how many years he had been
47 working on child sexual assault type matters?

1 A. No. It was a general conversation.
2
3 Q. Did you at any stage tell Detective Chief Inspector
4 Fox that Justin Quinn had never been a detective or an
5 investigator?
6 A. No, I didn't.
7
8 Q. Would a statement to that effect be consistent with
9 what you knew about Justin Quinn as at 2010?
10 A. That is correct.
11
12 Q. It is consistent or inconsistent?
13 A. Sorry, it would be inconsistent for me to say that he
14 had no investigative background.
15
16 Q. Are you aware that Detective Chief Inspector Fox has
17 given evidence to this inquiry that he asked you for
18 information about Justin Quinn and that he was told that he
19 has never been a detective or an investigator by you?
20 A. I am aware of that.
21
22 Q. And is that a fair reflection of what you told
23 Detective Chief Inspector Fox?
24 A. It is not.
25
26 Q. Did you have any discussion with Detective Chief
27 Inspector Fox that you recall where you offered an opinion
28 or knowledge as to Justin Quinn's background in
29 investigation?
30 A. I did, and it occurred not in 2010; it occurred in
31 2012, on 22 February 2012.
32
33 [Transcript redacted, per suppression order from
34 Page 612 line 33 to Page 613 line 2]
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Q. Can I interrupt you there. It's important we don't stray outside matters that are directly relevant to our terms of reference or at least closely enough matters of concern that we ought to go into them. I first want to direct your mind to any conversation you personally had with Detective Chief Inspector Fox, not so much the circumstances around it, but the fact that you had a discussion with him. Was it on that date?

A. It was on that day.

Q. Are you able to pinpoint that date, because, on that date, certain matters were raised with you by a particular officer under your command?

A. Absolutely.

Q. Can we move to the discussion with Detective Chief Inspector Fox?

A. It occurred in the conference room at Raymond Terrace police station. It was after the training day. The training day had adjourned. He approached me and --

Q. "He" being Detective Chief Inspector Fox?

A. Yes. As I was leaving the training day, Detective Chief Inspector Fox was standing in the middle of the training room.

Q. What did he say to you?

A. He called me over and asked me when I was at Newcastle had I worked with Justin Quinn and Kirren Steel. I told him that I had. I don't recall the rest of the conversation, but I do recall him asking me what their role was or their roles were when I was at Newcastle. I told him that Justin Quinn was a prosecutor and that Kirren was a sergeant. I said to him, "You'd better not print that in your book", and then I turned and walked out of the room. I walked through to the duty officer's office and I reported that conversation to Inspector Meares.

Q. Was there a question within that conversation you've just outlined that asked you to outline the background experience of Justin Quinn prior to you having interface with him at Newcastle when he was a prosecutor?

A. No. Basically the question was what were their roles when I was at Newcastle with them.

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Q. Why did you report that particular exchange to the duty officer?

A. Because of what had happened earlier in the day with the other police officer, I felt that --

Q. Without going into any more details about what happened with the other officer, if you could just outline your response to those circumstances?

A. I guess it was a bit of a vent really to another duty officer about the behaviour of Chief Inspector Fox.

MS LONERGAN: Those are my questions, Commissioner.

MR RUSH: I may have just one question. I am waiting on some instructions.

MR McILWAINE: I have one question and I'd like to ask it in a fairly roundabout way because it's about that police officer about which he's spoken.

<EXAMINATION BY MR McILWAINE:

MR McILWAINE: Q. Do you have a list of code names in front of you?

A. No, I don't.

MR McILWAINE: Perhaps the witness could be shown that.

THE COMMISSIONER: It is the blue and white document.

MR McILWAINE: Q. Firstly, was the officer that you spoke, to your understanding, related to one of the persons on that list, without giving that person's initial?

A. No.

MR RUSH: I have no question either.

THE COMMISSIONER: Mr Cohen?

MR COHEN: Thank you. Can I have just one moment.

<EXAMINATION BY MR COHEN:

MR COHEN: [Transcript redacted, per suppression order, from Page 614 line 45 to page 615, line 34]

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THE COMMISSIONER: Yes. I have to agree. I do make that non-publication order about any conversation in relation to another police officer and any family connections with anything that has been mentioned. That order is made under section 8 of the Special Commissions Inquiry Act 1983.

MR COHEN: Can I add this, Commissioner. Very serious allegations have been made against - I'll ask this question.

Q. None of this appears in your statement, does it?

1 MS LONERGAN: I object. I withdraw my objection.
2
3 MR SAIDI: I'm going to maintain my objection. What
4 relevance is it as to whether or not it's in the statement
5 or not? It's the material that is being referred to that
6 is being objected to as being irrelevant.
7
8 THE COMMISSIONER: Yes. Mr Cohen, I --
9
10 MR COHEN: I'll approach it this way.
11
12 Q. Isn't it the case the matter that you talked about -
13 putting aside all particulars and any identities - was
14 nothing more than an official file that had been sent to
15 DCI Fox and the author requested departmental approval to
16 speak to him? That's all that happened, isn't it?
17
18 MS LONERGAN: I object. Again it's more examination of
19 the irrelevant matter that was stumbled upon accidentally
20 by a question I asked where part of the answer was, in
21 effect, not entirely responsive and gave details not
22 required by this Commission.
23
24 MR COHEN: It might have been stumbled upon, but it's made
25 in these circumstances where was raised by others. This is
26 a matter that is of the utmost gravity with regard to the
27 alleged conduct of Detective Chief Inspector Fox. Surely
28 it must be able to be examined in that way, otherwise the
29 matter should just entirely be struck out.
30
31 THE COMMISSIONER: Mr Cohen, isn't the important
32 conversation the conversation about Detective Senior
33 Sergeant Quinn and his qualifications or --
34
35 MR COHEN: I accept that unreservedly, Commissioner, but
36 the genie is out of the bottle about the other matter.
37 You'll be invited to form adverse views about my client and
38 his conduct in circumstances that are just almost
39 impossible to deal with.
40
41 THE COMMISSIONER: I won't be making any adverse finding
42 about anything in relation to that conversation whatsoever.
43
44 MR COHEN: If that's clear.
45
46 THE COMMISSIONER: Thank you, Mr Cohen.
47

1 MR COHEN: I'm indebted to you, Commissioner.
2
3 THE COMMISSIONER: What about the next part of the day?
4
5 MR COHEN: Q. Detective inspector, the conversation
6 between you and Detective Chief Inspector Fox about
7 Detective Senior Sergeant Quinn and Detective Sergeant
8 Steel was limited to - DCI Fox was asking you what you knew
9 about each of them and you responding, as you've indicated,
10 but with no reference to any book. That's right, isn't it?
11 A. No, that's not correct.
12
13 Q. And that comment about "Don't put it in the book" is
14 just a gratuitous aside that didn't occur, isn't it?
15 A. That's not correct.
16
17 Q. That testimony of yours was simply a method by which
18 you are trying to blacken the reputation of Chief Inspector
19 Fox, isn't it?
20 A. Absolutely not.
21
22 MR COHEN: Thank you, Commissioner.
23
24 **<EXAMINATION BY MR SAIDI:**
25
26 MR SAIDI: Q. If I can come back to the issue of the
27 book, did you have any conversations with Detective Chief
28 Inspector Fox about writing a book and, if so, when were
29 they?
30 A. I can't give you specific dates of the conversation,
31 but we did have conversations about Detective Chief
32 Inspector Fox writing a book and I think it arose initially
33 as a bit of a cathartic measure when he was on sick report,
34 because he did suffer some severe --
35
36 Q. Did he tell you what the book was about in that
37 conversation; if so, what was it?
38
39 MR COHEN: I object. What does it matter?
40
41 MR SAIDI: It does because it was put to this witness that
42 there was no such conversation about a book.
43
44 MR COHEN: He denied that. Why does that need
45 justification or clarification?
46
47 MR SAIDI: Because it goes to a very serious issue,

1 relating to, firstly, what was put through instructions and
2 what the situation was. The reference to a book comes out
3 from other sources in this inquiry not merely from this
4 witness.

5
6 THE COMMISSIONER: I'll allow it.

7
8 THE WITNESS: Could you repeat your question?

9
10 MR SAIDI: Q. When we come to your discussions with him
11 about a book, did he tell you what the book was about; if
12 so, what did he tell you?

13 A. He said it was going to be about his career as a
14 detective of some 30 years and I do believe that he said
15 the 30 or so murders that he had investigated.

16
17 Q. And the discussions about a book being written by him,
18 over what period of time did they occur, can you tell us?

19 A. Those discussions would have occurred over a couple of
20 years.

21
22 Q. From when to when?

23 A. Certainly for two years prior to Detective Chief
24 Inspector Fox going on extended sick leave in June 2012.

25
26 Q. I want to come back to a topic relating to the extent
27 of resourcing or lack of resourcing that Port Stephens had
28 to conduct an investigation at that time. Let me approach
29 it this way: how many cases were there being handled by
30 Port Stephens Local Area Command in 2010, round
31 about August or thereabouts?

32 A. A ballpark figure, and that's what it is, would be 250
33 to 300 cases.

34
35 Q. And how many task forces or strike forces were running
36 out of Port Stephens at the one time?

37 A. We had one strike force - Strike Force Varberg
38 investigating a murder and we had Operation Seamist
39 investigating ongoing drug supply.

40
41 Q. In what phase was Operation Seamist at that time?

42 A. It was about to move to execution or arrest phase.

43
44 Q. In terms of Operation Seamist, how many detectives
45 were assigned to that operation?

46 A. One of the detective sergeants, Detective Sergeant
47 Wheatley, he was assisted by officers from the proactive

1 team and a restricted duties officer from Stroud and one of
2 our uniformed officers from general duties, who is now
3 working in the detectives office.
4

5 Q. The other strike force, how many detectives were
6 allocated to that?

7 A. Two detectives were allocated to that and they were
8 assisted by our State Crime Command homicide unit because
9 we couldn't staff it.
10

11 Q. Assuming Port Stephens were to take over the
12 investigation relating to the Catholic paedophile matters,
13 how many detectives would be available to undertake such an
14 investigation under the lead, if we assume that to be the
15 case, of Detective Chief Inspector Fox?

16 A. I had one detective sergeant and three detective
17 constables available, as I had another detective constable
18 on long-term sick report with a specific injury.
19

20 Q. In terms of resources, was Port Stephens in a position
21 whereby those detectives could be released in order to
22 assist with another investigation?

23 A. Detective Sergeant Metcalfe was deeply involved in a
24 ram-raid investigation involving about \$2 million worth of
25 ram raids and he could not be released from those duties,
26 which left three detectives and they were required for the
27 day-to-day issues arising in the LAC.
28

29 Q. In further terms of resourcing, in terms of physical
30 space or room at Raymond Terrace, what can you tell us
31 about that?

32 A. Varberg and Seamist were located off site. At that
33 point in time we were in temporary accommodation, being the
34 YMCA at Raymond Terrace. Mr Gralton, who was the local
35 commander at Central Hunter, had graciously allowed us to
36 use Beresfield police station to stage our operation and
37 strike force.
38

39 Q. Does one take it from that last answer there was no
40 room whereby detectives could be housed, if they were
41 specifically allocated to a new or fresh investigation?

42 A. Absolutely no room, and no additional computers there.
43

44 Q. Computer equipment and assets of that kind, was there
45 any such equipment available to house a fresh strike force
46 or task force?

47 A. No.

1
2 Q. What about in terms of other assets or resources, were
3 they available to house a fresh strike force or task force?
4 A. We were in the throes at that point of time of sending
5 submissions through to region, seeking additional staff and
6 additional vehicles for the LAC, and additional computers.
7
8 Q. In terms of Operation Seamist, which had been ongoing,
9 did Detective Chief Inspector Fox play a direct role in
10 that?
11 A. No, he didn't.
12
13 Q. In terms of any directions or instructions given to
14 him relating to media involvement, to your knowledge, were
15 any instructions given in relation to that aspect?
16 A. I'm not aware of any instructions.
17
18 Q. You were aware, as I understand it, that Detective
19 Chief Inspector Fox attended a meeting in December of 2010
20 in relation to the investigation of Roman Catholic
21 paedophilia matters?
22 A. I'm aware of that meeting, yes.
23
24 Q. Were you aware of that from speaking to him or other
25 sources?
26 A. I can't recall if I spoke to Detective Chief Inspector
27 Fox or someone else, but I was aware that he had attended a
28 meeting.
29
30 Q. After he attended the meeting, what discussions, if
31 any, did you have with him about the meeting?
32 A. I do believe that he told me that he had been
33 instructed to hand over any documents that he had and cease
34 investigating, if he was.
35
36 Q. Were there any other discussions at that time?
37 A. I don't recall any other discussion.
38
39 Q. Do you have any knowledge one way or the other as to
40 whether or not Detective Chief Inspector Fox was
41 undertaking any investigation in relation to Roman Catholic
42 paedophilia-related matters?
43 A. I have no knowledge of Detective Chief Inspector Fox
44 undertaking an investigation of that kind.
45
46 Q. When you say you have no knowledge, does that mean to
47 the best of your knowledge he wasn't, or does that mean

1 something else?

2

3 MR COHEN: I object. It means what it says. He had no
4 knowledge.

5

6 MR SAIDI: He had no knowledge. It could be ambiguous. It
7 could be interpreted he had no knowledge one way or the
8 other, or it could be interpreted that if I knew --

9

10 THE COMMISSIONER: Yes, it could be both ways. Mr Cohen.
11 Please ask the question again, Mr Saidi.

12

13 MR SAIDI: Q. In terms of Detective Chief Inspector Fox
14 conducting any Roman Catholic paedophilia-related matters
15 or sexual abuse matters, do you have any knowledge one way
16 or the other, firstly, as to whether or not he was
17 conducting such investigations?

18 A. I have no knowledge one way or the other as to whether
19 or not he was conducting investigations.

20

21 Q. At any time during the course of 2010 are you able to
22 tell us whether or not Detective Chief Inspector Fox ever
23 raised with you the subject matter of his conducting such
24 an investigation?

25 A. No, he didn't. The first I knew of the matters that
26 Detective Chief Inspector Fox raised was when I received
27 the report, which is attached to my statement.

28

29 Q. You became aware or, rather, that was the first time
30 it was raised with you. In your position at Port Stephens
31 at that time, do you have a view or an opinion one way or
32 the other whether or not the conducting of an investigation
33 by Detective Chief Inspector Fox without the knowledge of
34 his superior officers was appropriate or not?

35

36 MR COHEN: I object. The report, which is annotated by
37 this witness, speaks for itself.

38

39 MR SAIDI: I'm asking whether or not this officer believed
40 it would be appropriate or not if such an investigation was
41 being carried out. There's no such report by this officer,
42 or no such report. All we've got is, with respect, what is
43 contained in his statement, and no more.

44

45 THE COMMISSIONER: The question can be asked, Mr Cohen.

46

47 THE WITNESS: May I just clarify what date?

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MR SAIDI: Q. In 2010, during the period July to December.

A. The question was?

Q. Assume that he was conducting an investigation in relation to paedophilia-related matters, whether it be with the Catholic Church or otherwise, and such investigation was not brought to the attention of his superiors, do you have a view one way or the other whether that would be appropriate?

MR COHEN: I object. I maintain my objection. It's hypothetical.

MR SAIDI: It's been ruled upon. I ask the witness to answer it.

THE WITNESS: In my opinion it would be inappropriate because there would be no oversighting mechanisms in relation to the investigation.

MR SAIDI: Q. I want to ask you about police procedure if I may. In terms of a commander or a person holding the rank of a superior officer to another person or to another serving officer, what can you tell us about an officer going into the office of another officer in order to obtain a file or documentation?

A. I see absolutely nothing wrong with that.

Q. Why do you say that?

A. Because I've done it myself, and if I need a file for any particular reason I will go looking for the file if the officer is not available and can't give me the file. I've done it before and I see no problem with it, especially if the commander of the LAC is one of those officers.

MR SAIDI: Thank you.

MS LONERGAN: No re-examination, Commissioner. Might the inspector be excused.

THE COMMISSIONER: You are excused.

<THE WITNESS WITHDREW

MR HUNT: I call Brad Tayler.

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<BRAD TAYLER, sworn: [4.06pm]

MR McILWAIN: Before my friend commences, I am instructed that my client wishes to give his evidence unwillingly in court.

THE COMMISSIONER: Thank you, Mr McIlwaine. I understand that position, thank you.

<EXAMINATION BY MR HUNT:

MR HUNT: Q. Is your name Brad Tayler?

A. That's correct.

Q. Were you formerly a detective chief inspector of police attached to Newcastle Sydney local area command?

A. Yes.

Q. I'll just show the witness a further amended statement and one for you, Commissioner. Mr Tayler, is that a statement that you signed on 6 May 2013?

A. Yes.

Q. Subject to the redactions either to respect the anonymity of various people or relevance, is the statement true and correct?

A. Yes, it is.

MR HUNT: I tender the statement.

THE COMMISSIONER: The statement of Mr Brad Tayler of 6 May 2013 will be admitted and marked exhibit 9.

EXHIBIT #9 STATEMENT OF MR BRAD TAYLER OF 6/5/2013.

MR HUNT: Q. Were you attested into the New South Wales police force in October 1984?

A. Yes.

Q. Did you commence by performing general duties at Hornsby and then Newcastle before transferring to traffic duties?

A. Yes.

Q. In 1989 did you commence detectives training?

A. Yeah, commenced what they call A list duties, that's correct.

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Q. In that event, were you transferred to Kings Cross detectives and to the drug unit in 1994?

A. Went to the Kings Cross detectives office, followed by a stint at what was the drug enforcement agency in 1997 I think it was. I was also in the drug unit at Kings Cross as well.

Q. That is what I was trying to get to, that you were a detective at the drug unit in Kings Cross. In 1997 you have referred to being transferred to what was then known as the drug enforcement agency in Sydney?

A. Yes.

Q. You were promoted to the rank of detective sergeant in 1997 at Tamworth.

A. Yes.

Q. In the year 2000, you were promoted to inspector level 3 at Tamworth?

A. Yes.

Q. In 2002, you were promoted to inspector level 2 at Waratah?

A. Yes.

Q. And a mild correction to paragraph 3 of your statement - rather than 2004, it was 2003 that you were promoted to be detective chief inspector at Lake Macquarie command.

A. Yes.

Q. You held the position of crime manager there?

A. Yes.

Q. And in 2008 you were transferred by the then Northern Region commander to Newcastle City Local Area Command as the crime manager.

A. Yes.

Q. At the time you were transferred to Newcastle City as the crime manager, Superintendent Max Mitchell was the commander of that command?

A. Yes.

Q. And you were transferred at the time that that new command was created, because of the amalgamation of two

1 pre-existing local area commands; is that right?
2 A. Yes, that's correct.
3
4 Q. Is it the position that you remained as the crime
5 manager at Newcastle City Local Area Command until you
6 commenced extended sick leave in December 2010?
7 A. Yes.
8
9 Q. Can you pick up what your last day was before you
10 started that?
11 A. It was either 20 or 22 December, I think it was.
12
13 Q. Ultimately, you were medically discharged from the New
14 South Wales Police Service in December 2011?
15 A. Around about then, yes.
16
17 Q. Later on I'm going to circle back and ask you some
18 more questions about the circumstances of those events that
19 led you to going on extended leave. At the time you
20 provided your statement you had been provided some limited
21 materials by the Crown Solicitor's Office at the same time
22 as you got a request in writing for a statement; is that
23 right?
24 A. Yes, that's right.
25
26 Q. The materials that you had were photocopies of your
27 own diaries from 2009 and 2010?
28 A. Yes.
29
30 Q. Did it turn out, when you looked at your 2009 diaries,
31 that there was some material that looked like it might have
32 been of potential relevance, but ultimately proved to be in
33 relation to investigations in relation to an entirely
34 different denomination and different religious church and
35 other activities in relation to that?
36 A. Yes, that's correct.
37
38 Q. In short, is that the reason for the redaction of
39 paragraphs 8 to 12 on the second page of your statement?
40 A. Yes.
41
42 Q. Were you also provided an investigator's note of
43 3 December 2010 that was entitled "Case conference in
44 relation to Strike Force Lantle"?
45 A. Yes.
46
47 Q. Thinking about that now, was that an investigator's

1 note that was written by then Detective Sergeant Justin
2 Quinn?

3 A. Yes.

4

5 Q. Were you also shown or provided with an email that you
6 were copied into dated 18 September 2010?

7 A. Yes.

8

9 Q. Have I this morning, in the company of your solicitor,
10 Mr McIlwaine, taken you to various emails and other
11 materials that you haven't read for some time since the
12 original correspondence?

13 A. Yes, that's correct.

14

15 Q. Would you just outline, in brief, your evidence about
16 the role of crime manager, as you saw it, both when you
17 originally were at Lake Macquarie and then your attachment
18 at Newcastle City Local Area Command?

19 A. My comments are very similar to what Dave Waddell said
20 earlier. My role, amongst other things, was in charge of
21 criminal investigations within the Newcastle City command,
22 which comprised a detectives office, a drug unit office, a
23 proactive unit office. I was also responsible for a number
24 of areas including intelligence and so forth. At one stage
25 I was responsible for the licensing unit. There was heaps
26 of stuff that I was responsible for, but it was basically
27 the oversight of crime and major incidents in the command
28 and anything the commander wanted me to look at and that
29 involved investigations, reducing crime, proactive
30 operations and so forth.

31

32 Q. What do you say about the circumstances, if any, that
33 a crime manager would involve him or herself in at the
34 level of taking statements from potential witnesses or
35 complainants or victims and the like?

36 A. Generally, that's not what's done by a crime manager.

37

38 Q. I just want to ask you some questions about the
39 structure of the detectives office and where you were based
40 as crime manager --

41 A. At Newcastle.

42

43 Q. -- at Newcastle, say, in 2010.

44 A. Yes.

45

46 Q. You were based at Waratah?

47 A. Yes, I was based at Waratah.

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Q. And the investigations manager was based here in Newcastle City?

A. Newcastle, with all the detectives, apart from any --

Q. What staff was available in terms of the detectives?

A. Look, the structure was that we had a - for the detectives office we had an investigations manager, which was Detective Senior Sergeant Quinn. There were five detective sergeants and I think we had 25 investigators or detectives all based at Newcastle and at various times there might have been some in the drug unit or in other areas, but that was generally the structure at Newcastle.

Q. In a line management sense, you reported to the commander?

A. Yes.

Q. The investigations manager reported to you as crime manager?

A. Generally, yes.

Q. The detective sergeants reported to the investigations manager?

A. Yes.

Q. And would generally the detectives of rank below detective sergeant report to various detective sergeants within the detectives office?

A. Yes, that's generally how it works, yes.

Q. I just asked you a question a while ago and you said that generally a crime manager wouldn't take statements.

A. Yes.

Q. I think in Lake Macquarie, for instance, you've had some involvement in getting involved with investigations as a crime manager, particularly one big matter that involved child sexual assault; is that right?

A. Yes.

Q. In the context perhaps of using that as an example, would you describe to the Commissioner why it is that a crime manager wouldn't usually be involved in the taking of witness statements?

A. My view is, and this goes for not just crime managers but often detective sergeants, if you are running an

1 investigation --

2

3 Q. Can I ask you, you've got a habit of speaking quickly,
4 and the transcript typists need to keep up. If you could
5 try and slow yourself down or, in the alternative, say one
6 quick sentence and then have a gap before the next quick
7 one.

8 A. Can you repeat the question again?

9

10 Q. Perhaps in the context of the Orkopoulos
11 investigation, you might explain to the Commissioner why it
12 is you say that, in your practice at least, a crime manager
13 wouldn't be involved at the level of actually taking
14 witness statements?

15 A. Yes. In my opinion, and what I found is best
16 practice, is if you are running an investigation, a major
17 investigation, it makes more sense and it's easier to run
18 an investigation if you are not directly involved in
19 matters on a day-to-day basis, so you can sit back --

20

21 Q. Articulate why that is.

22 A. Because if you are involved in taking a statement, you
23 may have a preconceived view of where the investigation is
24 going, or you may miss something that's happening in a
25 fluid-type thing. So it's no different to whether you are
26 running a homicide or something like that. As a detective
27 sergeant and it's a live investigation, in my opinion it's
28 important that who ever is in charge of that sits back and
29 takes in everything that's occurring so they can give
30 directions and they are up-to-date with the event that's
31 occurring, rather than being locked away in a room taking a
32 statement or interviewing somebody, things are happening
33 but you are not controlling. So it's a matter of I suppose
34 managing that incident and managing resources and making
35 sure that things are going where they should be going.

36

37 Q. In your practice as a crime manager, what review would
38 you have of witness statements that were taken by other
39 people lower down the chain of command than yourself?

40 A. We read them - we read the statement or listen to or
41 read the transcript of any interviews, and plus they would
42 personally brief you and say, "This is what has been said,"
43 as it was ongoing.

44

45 Q. Would it be part of a crime manager's role to then
46 perhaps make further requisitions about additional
47 statements from either other witnesses or from the same

1 witness?

2 A. Yes, can be - one of many roles, yes.

3

4 Q. You have a perception set out at paragraph 6 of your
5 statement that when the file that ultimately became Strike
6 Force Lantle came to your attention, you had perceived that
7 it had been a file from Strike Force Georgiana?

8 A. Yes, this is my recollection a couple of weeks ago
9 we're talking about.

10

11 Q. Can I ask you about that? Your recollection that it
12 came from Strike Force Georgiana, was that based on that
13 you had understood that it came from the Lake Macquarie --

14 A. Yeah --

15

16 Q. -- Local Area Command?

17 A. I'm not saying it came out of the Strike Force
18 Georgiana investigation. I'm saying it came from those
19 offices who I think were attached to Strike Force
20 Georgiana.

21

22 Q. Strike Force Georgiana was commenced at a time that
23 you were the crime manager at Lake Macquarie?

24 A. That's correct.

25

26 Q. That was a matter, as we've heard, that involved
27 investigation into child sexual assault allegations and
28 ultimately convictions in relation to at least some clergy.

29 A. That's correct.

30

31 Q. Was Detective Sergeant Kristi Faber attached to that
32 strike force from its inception, to your recollection?

33 A. Yes, she was the officer in charge as long as I was
34 there.

35

36 Q. Without going into the particular details of those
37 investigations that were caught by that, is that a strike
38 force that varied in terms of the detective power that was
39 allocated to it from time to time?

40 A. Yes, that would be correct. That's no different to
41 most strike forces or investigations that you run. The
42 staffing level goes up and down as required and depending
43 on what phase and what's happening with the investigation.

44

45 Q. A strike force, is it generally allocated initially to
46 a detective sergeant?

47 A. No, not always. It's just based on ability. There

1 are some matters that you'd probably prefer that a
2 detective sergeant would run.

3
4 Q. Is the allocation of a detective sergeant one of the
5 indicators that a matter is seen as being a serious matter?

6 A. No, not always. Sometimes they are not available.
7 They might have other jobs. It just depends on basically -
8 in a perfect world you'd have a detective sergeant in every
9 one, but it doesn't work that way, unfortunately, so you
10 have to work out who you think is the best to run that
11 particular investigation.

12
13 Q. Can you explain in outline to the Commissioner what
14 the process is if there is a need for extra resources to be
15 allocated to a strike force. Say if it starts off with one
16 or two officers, what is the procedure in terms of the call
17 and then allocation of more detective resources, if needed?

18 A. I suppose there are two separate issues there. One is
19 that we can provide additional resources from our own
20 command and that would be based on something investigators
21 are telling me, "We need more staff," or whatever and then
22 it's a matter for me I suppose to determine whether they
23 do. There are also oftentimes when an investigation goes
24 outside of what we can probably provide to it or may go
25 across numerous boundaries and then we would approach other
26 local area commands, whether they can supply staff. That's
27 an ongoing basis whether you need more staff or you don't
28 need more staff.

29
30 Q. Can you now remember from your own memory without
31 being taken to documents when it was that you first had any
32 involvement with the file that ultimately became Strike
33 Force Lantle?

34 A. My recollection is that the file was sent to me from
35 Dave Waddell, who was the crime manager at Lake Macquarie.

36
37 Q. Mr Tayler, in front of you, there are three white
38 volumes. Keep your statement there where you can see it
39 and then have reference to it. There are three white
40 volumes. One is called volume 1 of 3. Can you get that in
41 front of you. First of all, just to identify them, and I
42 don't know that I'll need to take you to them individually,
43 would you look at tab 25. Are the materials that are
44 behind tab 25 notes from your diary that you had some
45 access to, and you'll see they have been redacted to take
46 out irrelevant material.

47 A. Yes, that appears to be the case. That first entry is

1 nothing to do with this matter, though.

2

3 Q. I was going to clarify that with you. The diary entry
4 of 10 July 2009 isn't relevant at all to this matter?

5 A. Nothing to do with this matter.

6

7 MR HUNT: Ultimately, if there is a time at which the
8 tender bundles or part of them are tendered, Commissioner,
9 we'll be asking you to not receive that matter into
10 evidence.

11

12 THE COMMISSIONER: Thank you.

13

14 MR HUNT: That particular page, for the record, has
15 page number 75 at the bottom.

16

17 Q. Can you see there in front of you, Mr Tayler, there is
18 a laminated turquoise-and-white list?

19 A. Yes.

20

21 Q. That's the pseudonym list. I want you to look
22 carefully at particularly number 21.

23 A. Yes.

24

25 Q. Number 24.

26 A. Yes.

27

28 Q. And number 11.

29 A. Yes.

30

31 Q. They might not be the only ones, but I want you to
32 have those entries closely in mind if it becomes relevant
33 as you are giving evidence.

34 A. Right.

35

36 Q. If you think you are going to mention the name of a
37 victim and you are a bit worried about where the pseudonym
38 is, I'd rather you identify your concern about where the
39 pseudonym is rather than accidentally say the name.

40 A. Okay.

41

42 Q. Are we understood?

43 A. Yes.

44

45 Q. Would you now move to tab 30A in volume 1. For
46 instance, you'll see in the second paragraph of the
47 document that's behind 30A that there is a redaction and

1 the pseudonym that you see at number 21 of the list is
2 there, [AL]?

3 A. Yes.

4

5 Q. That just gives you an idea of the process that has
6 been undertaken in terms of the documents. Is this the
7 document under the hand of Detective Inspector David
8 Waddell, a memo to you from himself as crime manager then
9 of Lake Macquarie to yourself as crime manager New South
10 Wales City LAC - that was the first that you came to know
11 about the file that ultimately became Strike Force Lantle?

12 A. I think David rang me before the file came across,
13 but, yeah, pretty well.

14

15 Q. In terms of the written record, that would be, on your
16 assessment, the first written document.

17 A. Yes.

18

19 Q. Will you then turn to tab 32. Does tab 32 reflect a
20 further email forwarding on some other material that was
21 forwarded to you by Detective Chief Inspector Waddell?

22 A. Yes.

23

24 Q. And, similarly, behind tab 33, the same, some further
25 material forwarded on?

26 A. Yes.

27

28 Q. Would you agree that the character of that material in
29 terms of particularly what's behind tab 33 is consistent
30 with Waddell forwarding on to you for attention material
31 that's consistent at least in relation to that document of
32 Joanne McCarthy providing source materials to the Police
33 Force for investigation?

34 A. Yes.

35

36 Q. Would you now turn to tab 38?

37 A. Yes.

38

39 Q. Tab 38 is, in summary, an email from Paul Jacob,
40 detective inspector and manager of the sex crimes team
41 within the Sex Crimes Squad within State Crime Command;
42 correct?

43 A. Yes.

44

45 Q. Can you remember, looking back now, whether you had
46 had any conversations with Paul Jacob about the file that
47 ultimately became Strike Force Lantle before this email

1 interaction?
2 A. That's a good question. I don't believe we had. I
3 don't think I had spoken to him at that stage.
4
5 Q. Just familiarise yourself, and I know you looked at
6 these matters briefly, but there is effectively a request
7 by Mr Jacob, otherwise known as Jaco --
8 A. Yes.
9
10 Q. -- to you to follow up a phone call that he had had
11 from a solicitor in South Australia. You can see that?
12 A. Yes.
13
14 Q. Then I want to take your attention - sorry to jump
15 around a bit, but it is necessary - to the items behind
16 tab 39. Tab 39 is a report by a solicitor to somebody
17 within the Catholic Church reporting on the phone call that
18 apparently ensued between yourself and that solicitor, Tony
19 Fuller, on 20 May 2010.
20 A. Yes.
21
22 Q. Reading what Fuller reports to Monsignor David Cappo,
23 do you agree that that seems consistent with your
24 recollection to be a fair summary of the conversation that
25 you are likely to have had with solicitor Fuller back on
26 20 May 2010?
27 A. Yes, I think so.
28
29 Q. In fact, included within the conversation that you had
30 with Fuller was that you had been sent some materials, you
31 had been sent some material that involved some media
32 interest in the matter, and that the file was being
33 assessed and, if you thought it was appropriate, that the
34 matter might be forwarded on to the sex crimes section or
35 squad for some assessment after that assessment. Is that a
36 fair recitation of the phone call?
37 A. Yes.
38
39 Q. Now I want you to turn to that which is behind
40 tab 38A.
41 A. Yes.
42
43 Q. That is your submission as crime manager Newcastle
44 City dated 20 May submitting the file - I'll call it that
45 way from now on - the file be forwarded to Sex Crimes State
46 Crime Command for investigation.
47 A. Yes.

1
2 Q. And Superintendent Max Mitchell, was he your commander
3 at the time of this?
4 A. Yes.
5
6 Q. Just tell me if my reading of - you might be more
7 familiar with then Superintendent Mitchell's handwriting.
8 Are you familiar with it?
9 A. Vaguely.
10
11 Q. Is my interpretation of his rather elusive handwriting
12 this:
13
14 *Content and recommendation agreed to.*
15 *State crime charter ...*
16
17
18 A. "And risk to organisation if not investigated
19 appropriately."
20
21 Q. Is that police speak for the reason that it's
22 appropriate that it go off to --
23 A. State Crime Command. That was our opinion, yes.
24
25 Q. Can you unwrap, in layman's terms, for the
26 Commissioner effectively what is meant by then
27 Superintendent Mitchell's reference to those things?
28 A. The risk to the organisation I suppose, I assume - I'm
29 only guessing what Max would be saying really - if you want
30 me to guess what he's referring to --
31
32 Q. I don't want you to guess. He'll give evidence. We
33 can ask him.
34 A. Yes, you'll have to ask him about that.
35
36 Q. Is it a fair proposition that the conversation that
37 you had with the solicitor on behalf of the then Archbishop
38 of Adelaide was one of the factors that you took into
39 account together with other things that you had already
40 read in the file in forming the view that it was proper
41 that the matter should go to State Crime Command?
42 A. Not the fact that I had a conversation with the
43 solicitor, no, but the rank or the position of Archbishop
44 Wilson was a concern to us.
45
46 Q. Could you say to the Commissioner what it was about
47 that that made it a concern?

1 A. I think we could see that - it had a scope of having,
2 I suppose, some political issues I suppose is the best way
3 to have it with such a high-ranking person in the Catholic
4 Church having allegations against him and, for that reason,
5 we thought it more appropriate for State Crime Command to
6 have a look at it based on the fact that it involved such
7 senior hierarchy.

8
9 Q. What would it be about the resources or the ability
10 of the State Crime Command compared with Newcastle City LAC
11 that would make you think that that might be a good idea?

12 A. Look, I don't know about resources or what resources
13 they had, but it's more in regards to that that was their
14 total line of work and they were the experts in that field,
15 so that was my reason for putting the report in.

16
17 MR HUNT: Commissioner, I know Mr Tayler has been waiting
18 patiently all day as a civilian to get into the witness
19 box, but unfortunately it is now 4.35. The immutable
20 schedule means that we will be hearing some evidence from
21 Assistant Commissioner York at 9.30 and I am hoping that
22 Mr Tayler is happy to come back in the morning and we will
23 hope to resume his evidence-in-chief and, indeed, the
24 balance of his evidence tomorrow at some stage.

25
26 THE COMMISSIONER: I'm sorry, Mr Tayler, but your evidence
27 has to be broken up and indeed by another witness. If you
28 would join us tomorrow, we would be much appreciative.
29 Thank you.

30
31 **AT 4.35PM THE COMMISSION WAS ADJOURNED TO**
32 **TUESDAY, 14 MAY 2013 AT 9.30AM**

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